

*The Punjab Municipal Bill, 1891.**(Chapter VII.—Offences affecting the Public Health, Safety or Convenience.—  
Sections 152-163.)*

may appeal within thirty days from the date of such prohibition, notice or order to the Commissioner if the committee is a committee of a first class municipality, or to the District Magistrate, or such other officer as the Local Government may appoint in this behalf, if the committee is a committee of a second class municipality; and no such prohibition, notice or order shall be liable to be called in question otherwise than by such appeal:

Provided that, if, in the latter case, the District Magistrate or such other officer as aforesaid is himself a member of the committee, the appeal shall lie to the Commissioner.

(2) The appellate authority may for sufficient cause extend the period allowed by subsection (1) for appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the prohibition, notice or order appealed from shall be final:

Provided that the prohibition, notice or order shall not be modified or set aside until the appellant and the committee have had reasonable opportunity of being heard.

## CHAPTER VII.

OFFENCES AFFECTING THE PUBLIC HEALTH,  
SAFETY OR CONVENIENCE.

152. Whoever, without the permission of the committee or in disregard of its orders, throws or deposits, or permits his servants or members of his household under his control to throw or deposit, earth or materials of any description, or refuse, rubbish or offensive matter of any kind, upon any street or place, or into any public sewer or drain or any drain communicating therewith, shall be punishable with fine which may extend to twenty rupees.

153. Whoever, without the permission of the committee, causes or allows the water of any sink, sewer or cesspool, or any other offensive matter, to flow, drain or be put upon any street or place, or into any sewer or drain not set apart for the purpose, shall be punishable with fine which may extend to twenty rupees.

154. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or filth or any noxious or offensive matter in or upon such building or land, or suffers any such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse and purify the same, shall be punishable with fine which may extend to fifty rupees.

155. Whoever, without the permission of the committee, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the sewers or drain vested in the committee, shall be punishable with fine which may extend to fifty rupees.

156. Whoever makes without the permission of the committee, or keeps for a longer time than one week after notice under section 125, any drain, latrine, urinal, cesspool or other receptacle for filth or refuse within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, shall be punishable with fine which may extend to twenty rupees, and, when a notice has issued, with a further fine not exceeding five rupees for each day during which the offence is continued after the lapse of the period allowed for removal.

157. Whoever keeps any swine in disregard of any orders which the committee may give to prevent them from becoming a nuisance, or keeps any other animals so as to be injurious to the health of human beings or of animals or so as to become a nuisance, shall be punishable with fine which may extend to twenty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

158. Whoever feeds or allows to be fed any animal which is kept for dairy purposes or may be used for food on deleterious substances, filth or refuse of any kind, shall be punishable with fine which may extend to fifty rupees.

159. Whoever drives any vehicle after dark in any street at more than a walking pace, unless the vehicle is properly supplied with lights or there is sufficient moonlight to render lights unnecessary, shall be punishable with fine which may extend to twenty rupees.

160. Whoever discharges fire-arms or lets off fire-works or fire-balloons, or engages in any game, in such a manner as to cause or be likely to cause danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punishable with fine which may extend to twenty rupees.

161. Whoever, being an elephant-driver or camel-driver, omits on being requested to do so to remove his elephant or camel to a safe distance on the approach of a horse, whether ridden or driven, shall be punishable with fine which may extend to twenty rupees.

162. Whoever, contrary to any orders of the committee, takes an elephant along a street shall be punishable with fine which may extend to twenty rupees.

163. Whoever, being the owner or person in charge of any dog which is likely to annoy or intimidate passengers, neglects to restrain it so that it shall not be at large without a muzzle in any street shall be punishable with fine which may extend to twenty rupees.

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(Chapter VII.—Offences affecting the Public Health, Safety or Convenience.—  
Sections 164-170. Chapter VIII.—Extinction and Prevention of Fire.—  
Sections 171-174.)

164. Whoever, without the permission of the committee, alters, obstructs or encroaches upon any street, sewer, drain or water-course, or displaces, takes up or alters the pavement or other materials or the fences or posts of any street, or deposits building-materials or makes any hole or excavation on or in any street, or removes material from beneath any street so as to occasion risk of surface subsidence, shall be punishable with fine which may extend to fifty rupees.

165. Whoever quarries, blasts, cuts timber or carries on building-operations in such a manner as to cause, or be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, shall be punishable with fine which may extend to fifty rupees.

166. Whoever, contrary to the orders of the committee, pickets animals or collects carts on any public ground, or uses any such ground as a halting-place for vehicles or animals of any description or as a place of encampment, or causes or permits animals to stray, shall be punishable with fine which may extend to twenty rupees.

167. Whoever carries a corpse along a route prohibited by the committee, or in a manner as to cause annoyance, likely to cause annoyance to the public, shall be punishable with fine which may extend to ten rupees.

168. Whoever, without being authorised by the committee, defaces or disturbs any direction-post or lamp-post, or extinguishes any light in any public place, shall be punishable with fine which may extend to ten rupees.

169. Whoever disobeys any lawful directions given by the committee by public notice under the powers conferred upon it by the last foregoing Chapter, or any written notice lawfully issued by it under the powers so conferred, or fails to comply with the conditions subject to which any permission was given by the committee to him under those powers, shall, if the disobedience or omission is not an offence punishable under any other section, be punishable with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues:

Provided that, when the notice fixes a time within which a certain act is to be done and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

170. Any prosecution for an offence under section 107 or section 135, suspended in certain cases, or under section 169, when the order which has been disobeyed is appealable, shall be suspended

when the Magistrate learns that an appeal has been instituted pending the decision of the appeal; and, if the order is set aside on appeal, disobedience thereto shall not be deemed an offence against those sections.

## CHAPTER VIII.

## EXTINCTION AND PREVENTION OF FIRE.

171. For the prevention and extinction of fire the committee may establish and maintain a fire-brigade and may provide any implements, machinery or means of communicating intelligence which the committee may think necessary for the efficient discharge of their duties by the brigade.

172. (1) On the occasion of a fire in a municipality any Magistrate, and other persons for any member of the committee, any member of a fire-brigade maintained by the committee then and there directing the operations of men belonging to the brigade, and (if directed so to do by a Magistrate or by a member of the committee) any Police-officer above the rank of constable may—

- (a) remove or order the removal of any persons who by their presence interfere with or impede the operations for extinguishing the fire or for saving life or property, and may close any street or passage in or near which any fire is burning;
- (b) by himself or those acting under his orders break into or through, or pull down, or use for the passage of hoses or other appliances, any premises for the purpose of extinguishing the fire;
- (c) cause mains and pipes to be shut off so as to give greater pressure of water in the place where the fire has occurred;
- (d) call on the persons in charge of any fire-engine to render such assistance as may be possible; and,
- (e) generally, take such measures as may appear necessary for the preservation of life and property.

(2) No person shall be liable to pay damages for any act done by him under sub-section (1) if the act is done in good faith.

(3) Any damage done in the exercise of a power conferred or a duty imposed by this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

173. The powers conferred by the last foregoing section shall be subject to any regulations, conditions or restrictions which may be imposed by the Local Government by rule under section 183.

174. No portion of this Chapter shall take effect in a municipality until it has been specially extended thereto by the Local Government at the request of the committee.

*The Punjab Municipal Bill, 1891.**(Chapter IX.—Control.—Sections 175-181.)*

## CHAPTER IX.

## CONTROL.

**175.** (1) The Commissioner of the division or Control by Commis: the *District Magistrate* sioner and District may—  
Magistrate.

- (a) enter on, inspect and survey, or cause to be entered on, inspected and surveyed, any immovable property within the limits of the division or district respectively occupied by any committee or joint committee, or any work in progress within those limits under its directions;
- (b) by order in writing call for and inspect any book or document in the possession or under the control of any committee or joint committee having authority within the said limits;
- (c) by order in writing require any such committee or joint committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the committee as he may think fit to call for; and
- (d) record in writing, for the consideration of any such committee or joint committee, any observations he may think proper in regard to the proceedings or duties of the committee.

(2) Every committee shall submit such periodical reports to the *District Magistrate* or other authority as the Local Government may direct.

**176.** The Commissioner of the division or the *District Magistrate* may, Power to suspend action of committee. by order in writing, suspend, within the division or district respectively, the execution of any resolution or order of a committee or joint committee, or prohibit the doing of any act within the said limits which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

**177.** (1) In cases of emergency the *District Magistrate* may provide Extraordinary powers of *District Magistrate* in case of emergency. for the execution of any work, or the doing of any act, which a committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or of doing the act shall be forthwith paid by the committee.

(2) If the expense is not so paid, the *District Magistrate* may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible from that balance, in priority to all other charges against the same.

**178.** (1) When the Commissioner, after due Power to provide for performance of duties in case of default of committee. enquiry, is satisfied that a committee of the first class has made default in performing any duty imposed

upon it by or under this Act, he may, by an order in writing, fix a period for the performance of that duty; and, if it is not performed within the period so fixed, he may appoint some person to perform it, and may direct that the expense of performing it shall be paid, within such time as he may fix, by the committee to that person.

(2) If the expense is not so paid, the Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance, in priority to all other charges against the same.

(3) The *District Magistrate* shall have the same powers with respect to committees of the second class as are by this section conferred upon the Commissioner with respect to committees of the first class.

**179.** When the *District Magistrate* makes Action of *District Magistrate* or Commissioner to be immediately reported. any order under section 176, section 177 or section 178, he shall forthwith forward to the Local Government through the Commissioner, and, when the Commissioner makes any order under section 176 or section 178, he shall forthwith forward to the Local Government, a copy thereof, with a statement of the reasons for making it, and with such explanation, if any, as the committee may wish to offer; and the Local Government may thereupon confirm, modify or rescind the order.

**180.** (1) The Local Government, and the Powers of Local Government and its officers over committee. Commissioners and *District Magistrates* acting under the orders of the Local Government, shall be bound to require that the proceedings of committees shall be in conformity with law and with the rules in force under any enactment for the time being applicable to the Punjab generally or to the areas over which the committees have authority.

(2) The Local Government may exercise all powers necessary for the performance of this duty, and may, among other things, by order in writing, annul or modify any proceeding which it considers not to be in conformity with law or with the rules in force under any enactment for the time being applicable to the Punjab generally or to the area affected by the proceeding, or with the declared policy of the Governor General in Council or of the Local Government.

(3) The Commissioner of the division and the *District Magistrate* may, within their jurisdiction for the same purpose, exercise such powers as may be conferred upon them by rule made in this behalf by the Local Government.

**181.** (1) If a committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by notification, in which the reasons for so doing shall be stated, declare the committee to be superseded:

Power of Local Government to supersede committee in case of incompetency, persistent default or abuse of powers.



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Provided that, in case of public emergency, such notification may be issued without the previous approval of the Governor General in Council, but shall be forthwith reported to the Governor General in Council and shall be subject to his orders.

(2) When a committee is so superseded, the following consequences shall ensue:—

- (a) all members of the committee shall, from the date of the notification, vacate their offices as such members;
- (b) all powers and duties of the committee may, until the committee is reconstituted, be exercised and performed by such person as the Local Government appoints in that behalf;
- (c) all property vested in the committee shall, until the committee is reconstituted, vest in Her Majesty.

(3) The Local Government shall, as soon as, in its judgment, conveniently may be, constitute another committee in the place of any committee superseded under this section.

182. (1) If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more committees constituted under this Act, or between any such committee and a district board or cantonment authority, the matter shall be referred—

- (a) to the *District Magistrate*, if the local authorities concerned are in the same district;
- (b) to the Commissioner or Commissioners of the division or divisions, if the local authorities concerned are in different districts; and
- (c) to the Local Government, if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

(2) The decision of the authority to which any dispute is referred under this section shall be final.

(3) If, in the case mentioned in clause (a), the *District Magistrate* is a member of one of the committees or boards concerned, his functions under the section shall be discharged by the Commissioner.

183. (1) The Local Government may frame forms for any proceeding of a committee for which it considers that a form should be provided, and make rules consistent with this Act—

- (a) with respect to the powers and duties of committees in municipalities of the first and of the second class, respectively;
- (b) as to the division of the municipality into wards, or of the inhabitants into classes, or both;
- (c) as to the number of representatives proper for each ward or class;
- (d) as to the qualifications of electors and of candidates for election;
- (e) as to the registration of electors;

(f) as to the nomination of candidates, the time of election and the mode of recording votes;

(g) generally for regulating all elections under this Act;

(h) fixing the term of office of members and presidents of committees;

(i) prescribing the qualifications requisite in the case of persons appointed by a committee to offices requiring professional skill;

(j) as to the priority to be given to the several duties of the committee;

(k) as to the authority on which money may be paid from the municipal fund;

(l) as to the appointment, promotion, suspension, reduction, fining and dismissal of municipal watchmen;

(m) as to the formation and working of municipal fire-brigades;

(n) as to the procedure to be observed for the punishment or dismissal of servants of the committee;

(o) as to the conditions on which property vested in the committee may be transferred by sale, mortgage, lease, exchange or otherwise;

(p) as to the intermediate office or offices, if any, through which correspondence between committees and members of committees and the Local Government or officers of that Government shall pass;

(q) as to the preparation of plans and estimates for works to be partly or wholly constructed at the expense of committees, and as to the person by whom, and the conditions subject to which, such plans and estimates are to be sanctioned;

(r) as to the accounts to be kept by committees, as to the conditions on which such accounts are to be open to inspection by inhabitants paying any tax under this Act, as to the manner in which such accounts are to be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(s) as to the preparation of estimates of income and expenditure of committees, and as to the person by whom, and the conditions subject to which, such estimates may be sanctioned;

(t) as to the returns, statements and reports to be submitted by committees;

(u) as to the powers to be exercised by Commissioners and *District Magistrates* under section 180;

(v) as to the language in which business shall be transacted, proceedings recorded and notices issued;

(w) as to the publication of notices; and,

(x) generally, for the guidance of committees and public officers in carrying out the purposes of this Act.

(2) Rules under clause (g) of sub-section (1) may, among other matters, provide—

- (i) for the investigation of allegations of corrupt practices or intimidation at elections;

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(Chapter IX.—Control.—Section 184. Chapter X.—Supplemental.—Sections 185-190.)

(ii) for making void the election of any person proved to the satisfaction of the Local Government or of the Commissioner, as the municipality may be of the first or of the second class, to have been guilty of corruption or intimidation or to have connived at or abetted the exercise of corruption or intimidation on his behalf by any other person;

(iii) for rendering incapable of municipal office either permanently or for a term of years any person whose election may have been made void as aforesaid for corruption or intimidation or for connivance at or abetment of the same; and

(iv) for the definition of the practices at municipal elections which are to be deemed to be corrupt or to amount to intimidation.

**184.** In all matters connected with this Act the Local Government shall have and exercise over Commissioners and District Magistrates, and Commissioners shall have and exercise over District Magistrates, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

## CHAPTER X.

## SUPPLEMENTAL.

*Prosecutions.*

**185.** A Court shall not take cognizance of an offence punishable under this Act or any rule thereunder except on the complaint of the committee or of some person authorised by the committee in this behalf.

*Explanation.*—The committee may authorise persons to prosecute either generally in regard to all offences against this Act and the rules thereunder or particularly in regard only to specified offences or offences of a specified class. The person authorised may be authorised by office if he is president, vice-president or secretary of the committee. In other cases the authority must be personal. The authority must in all cases be in writing and may at any time be cancelled by the committee.

**186.** (1) In any municipality of the first class the Local Government may empower any member or officer of the committee, by name or by office, to accept from any person against whom a reasonable suspicion exists that he has committed an offence against this Act or any rule thereunder a sum of money by way of composition for such offence.

(2) On payment of such sum of money the suspected person if in custody shall be discharged, and no further proceedings under this Act or any rule thereunder or under any other law shall be taken against him in regard to the offence alleged and compounded;

(3) Sums paid in composition under this section shall be credited to the municipal fund.

(4) Power under sub-section (1) to accept composition for alleged offences may be given either generally in regard to all offences under this Act and the rules thereunder or particularly in regard only to specified offences or offences of a specified class.

(5) The Local Government may make rules to regulate the proceedings of persons empowered to accept composition under this section for alleged offences.

**187.** A Judge or Magistrate shall not be deemed a Member not to be deemed interested in prosecution. section 555 of the Code of Criminal Procedure, 1882, to be a party to, or personally interested in, a prosecution for an offence punishable under this Act or any rule thereunder, or under any other law, merely because he is a member of the committee by the order, or under the delegated authority, of which it has been instituted.

*Rules.*

**188.** (1) The authority empowered to make rules under any section of Chapter VI or under section 183 shall, before making them, publish, in such manner as may, in its opinion, be sufficient for giving information to persons interested, a draft of the proposed rules with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or any suggestion which may be made by any person with respect to the draft before the date so specified.

(2) If, on such consideration of the draft, any modification is made, the Local Government shall determine whether it is desirable to republish the draft under this section.

(3) Every rule made under any of the said sections shall be notified in English, and in such other language or languages as the Local Government may direct; and such notification shall be conclusive evidence that the rule has been made as is required by this section.

**189.** (1) A copy of all rules made under this Act shall be kept at the committee's office, and shall be open during office-hours without charge to the inspection of any inhabitant.

(2) Copies of all such rules shall be kept at the committee's office for sale to the public at a price not exceeding one rupee.

*Notices.*

**190.** (1) Every notice issued by a committee under this Act or under any rule thereunder shall be in writing, and shall be sufficiently authenticated by the signature of the president, vice-president, secretary or assistant secretary, and may be served on the person to whom it is addressed, or left at his usual place of abode or business with some adult male member or servant of his family, or, if it cannot be so served, may be posted on some conspicuous part of his place of abode or business:

*Provided, with respect to the authentication of a notice, that signature by two members of a committee shall be sufficient for any notice*

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which the Commissioner may permit to be so authenticated.

(2) If the place of abode or business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(3) If the place of abode or business of the owner of any property is not known, every such notice addressed to him as such owner may be served on the occupier.

(4) If the place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by posting it on some conspicuous part of the property.

(5) No notice issued by the committee under this Act or under any rule thereunder shall be invalid for defect of form.

191. When any notice is under the provisions

of this Act to be given to or served on the owner or occupier of any property and he is unknown, it may be given or served—

(a) by delivering a written notice to some person on the property, or, if there is no person on the property to whom it can be delivered, by fixing it on some conspicuous part of the property; or

(b) by putting into the post a prepaid letter containing a written notice, and addressed by the description of the "owner" or "occupier" of the property (naming it) in respect of which the notice is given, without further name or description.

192. Every public notice given by a committee under this Act or under any rule made thereunder shall be published by proclamation or in such other manner as the Local Government may, by rule, direct.

*Alteration of Boundaries and Class of Municipality.*

193. The Local Government may, by notification published in the official Gazette, and in such other manner as it may determine, declare its intention—

(a) to exclude from a municipality any local area comprised therein and defined in the notification; or

(b) to include within a municipality any local area in the vicinity of the same and defined in the notification:

Provided that, where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous consent of the Governor General in Council.

194. (1) Any inhabitant of a municipality or local area in respect of which a notification has been published under section 193 may, if he objects to the alteration proposed, submit his objection in writing through the

District Magistrate to the Local Government within six weeks from the publication of the notification in the Gazette; and the Local Government shall take his objection into consideration.

(2) When six weeks from the publication of the notification have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by notification, exclude the local area from the municipality or include it therein as the case may be.

195. (1) When a local area is excluded from a municipality under section 194,—

(a) this Act, and all rules, orders, directions and powers made, issued or conferred under this Act shall cease to apply thereto; and

(b) the Local Government shall, after consulting the committee, frame a scheme determining what portion of the balance of the municipal fund and other property vested in the committee shall vest in Her Majesty for the benefit of the local area, and in what manner the liabilities of the committee shall be apportioned between the committee and the Secretary of State for India in Council; and, on the scheme being notified, the property and liabilities shall vest and be apportioned accordingly.

(2) All property vested in Her Majesty under sub-section (1) shall be applied under the orders of the Local Government to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the safety, health, welfare or convenience of the inhabitants of the local area.

196. When a local area is included in a municipality under section 194, this Act, and, except as the Local Government may otherwise by notification direct, all rules, orders, directions and powers made, issued or conferred under this Act and in force throughout the whole municipality at the time the local area is so included, shall apply to the local area.

197. The Local Government may, after consulting the committee, direct, by notification, that any municipality be transferred from one class to another.

*Powers to except and withdraw Municipalities from provisions of Act.*

198. (1) If the circumstances of any municipality are such that, in the opinion of the Local Government, any of the provisions of this Act are unsuited thereto, the Local Government may, by notification, except the municipality from the operation of those provisions; and thereupon those provisions shall not apply to the municipality until applied thereto by notification.

(2) While the exception remains in force, the Local Government may make rules for the



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guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

**199.** (1) The Local Government may, by notification, withdraw the local area comprised in any municipality constituted under this Act from the operation of the same.

Power to withdraw municipal area altogether from operation of this Act.

(2) When a notification is issued under this section in respect of any local area, this Act, and all rules, regulations, bye-laws, orders, directions and powers made, issued or conferred under this Act, shall cease to apply to the local area; the balance of the municipal fund, and all other property which at the time of the issue of the notification is vested in the municipal committee, shall vest in Her Majesty; and the liabilities of the committee shall be transferred to the Secretary of State for India in Council.

(3) All property vested in Her Majesty under sub-section (2) shall be applied under the orders of the Local Government to discharge the liabilities imposed on the Secretary of State for India in Council by that sub-section, or for the promotion of the safety, health, welfare or convenience of the inhabitants of the local area.

*Miscellaneous.*

**200.** Any arrears of any tax or fee or any other money claimable by a committee under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property within those limits belonging to the person from whom the money is claimable.

**201.** When any building used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious sentiments of the occupiers; and, before any apartment in the actual occupancy of any woman, who according to custom does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

**202.** (1) In the absence of a written contract to the contrary a sweeper employed by a committee shall be entitled to fifteen days' notice before discharge or to fifteen days' wages in lieu thereof, unless he is discharged for misconduct or unless he was engaged for a specified term and discharged at the end of it.

(2) If, without reasonable cause, a sweeper employed by a committee resigns or absents himself from his duties without giving fifteen days' notice to the committee, or if he neglects or refuses to perform his duties, he shall be liable to imprisonment which may extend to two months.

(3) The Local Government may, by notification, direct that, on and from a date to be specified in the notification, the provisions of sub-sections (1) and (2) with respect to sweepers shall apply also to any other class of servants described in the notification who are employed by any committee therein mentioned.

**203.** (1) On the complaint of three or more inhabitants of a municipality that a house in their immediate neighbourhood and within the limits of the municipality is used as a common brothel or lodging-house for prostitutes or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, any Magistrate of the first class having, as such, jurisdiction in the place where the house is situated may summon the owner or tenant of the house to answer the complaint; and, on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it; and, if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five rupees for every day thereafter that the house shall be so used.

(2) This section shall take effect in a municipality only after it has been specially extended thereto by the Local Government at the request of the committee.

**204.** (1) When a person, by reason of his receiving the rent of immoveable property as agent or trustee, or of his being as agent or trustee the person who would receive the rent if the property were let to a tenant, would, under this Act, be bound to discharge any obligation imposed by this Act on the owner of the property and for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own act or default might have had, in his hands funds belonging to the owner sufficient for the purpose.

(2) The burden of proving the facts entitling an agent or trustee to relief under this section shall lie on him.

**205.** If any question arises whether a person or persons of a specified class is or are an inhabitant or inhabitants of a local area within the meaning of this Act, the decision thereon of the Commissioner of the division shall be conclusive.

**206.** Nothing in this Act shall affect the Local Authorities Loans Act, XI of 1879.

*Simla Land-tax.*

WHEREAS there is at present levied on certain lands situate in the municipality of Simla a tax at the rate of ten rupees per two thousand five hundred square yards or fraction of two thousand and five hundred square yards; It is hereby enacted as follows:—

**207.** The said tax shall be deemed to be a Simla land-tax continued, tax lawfully imposed and assessed under this Act and leviable in addition to any other tax leviable hereunder.

*Simla House and Frontage Taxes.*

**208.** The house and frontage taxes which Simla house and frontage taxes have been levied in the municipality of Simla since the year 1885 shall, at the rates charged in the year 1890, be deemed to have been and to be duly imposed under this Act.

*The Punjab Municipal Bill, 1891.*

(Chapter XI.—Small Towns.—Sections 209-213.—Schedule.)

## CHAPTER XI.

## SMALL TOWNS.

209. (1) The Local Government may, by notification, declare that, with respect to some or all of the matters upon which the municipal fund of a municipality may be expended under section 72, improved arrangements are required within a specified area, which, nevertheless, it is not expedient to constitute as a municipality.

(2) An area in regard to which a notification has been issued under sub-section (1) is hereinafter called a notified area.

(3) No area shall be made a notified area if it contains more than seven thousand inhabitants according to the returns of the most recent official census, or unless it contains a town and is not a purely agricultural village.

Power of Local Government to impose taxation and regulate expenditure of proceeds thereof.

210. (1) The Local Government may—

- (a) impose in any notified area any tax which could be imposed there by a municipal committee if the notified area were a municipality;
- (b) apply or adapt to the notified area, for the assessment and recovery of any tax imposed under clause (a), any of the provision of this Act, or of any rules for the time being in force thereunder, with respect to the assessment and recovery of any tax imposed under this Act;
- (c) arrange for the due expenditure of the proceeds of taxes imposed under clause (a), and for the preparation and maintenance of proper accounts;

(d) appoint a committee of one or more persons for the purposes of clauses (b) and (c);

(e) extend to any notified area the provisions of any section of this Act subject to such restrictions and modifications, if any, as the Local Government thinks fit.

(2) The proceeds of any tax levied in any notified area under this section shall be expended only as the municipal fund of such notified area might be expended if the notified area were a municipality.

211. In regard to any section of this Act which may be extended to a notified area the committee appointed for such area under clause (d) of section 210, sub-section (1), shall be deemed to be a municipal committee under this Act and the area to be a municipality.

212. The Local Government may at any time cancel any notification issued under section 209.

213. If by reason of any order of cancellation under the last foregoing section any notified area ceases to be notified, the unexpended proceeds of any taxes levied therein under section 210 shall be applied for the benefit of the inhabitants of the area as the Local Government may think fit.

## SCHEDULE.

(List of places referred to in section 42.)

SIMLA.	DALHOUSIE.
DHARAMSALA.	MURREE.

## STATEMENT OF OBJECTS AND REASONS.

THE Punjab Municipal Act, XIII of 1884, has been found by experience to be in some respects inconvenient and defective. The procedure required by it is sometimes excessively elaborate in regard to the smaller municipalities, while in some cases (more especially in the hill municipalities) the Act gives no powers with respect to certain matters of building, social convenience and sanitation which stand in need of proper regulation.

2. His Honour the Lieutenant-Governor of the Punjab considers therefore that the Act should be amended, and further that the amendments should, for the convenience as well of persons having to administer, as of persons interested in the administration of, municipalities in the Punjab, be incorporated in a Bill consolidating the proposed new law with the old.

The Governor General in Council concurs with His Honour; and this Bill has been prepared accordingly, new or altered matter being printed in italics.

3. Section 5.—The condition imposed by section 5 of the Act of 1884, that a committee must not consist of less than six members, is unnecessary, and has proved inconvenient in small places like Kalka. Even in large places small committees may occasionally be necessary.

4. Sections 7, 8 and 9.—The main object of these sections is to secure the prompt introduction of changes from appointment to election and *vice versa* when such changes seem to the Local Government to be desirable.



5. *Section 16.*—The sub-sections added to this section are intended to avoid needless trouble. At present an *ex officio* president or vice-president has to be elected or appointed again and again as often as the incumbent of the office changes.

6. *Sections 19, 20 and 50.*—The main object of the alterations in these sections is to decentralize some of the minor apparatus of municipal administration so as to prevent unnecessary references to the Local Government.

7. *Sections 43 and 111-119.*—Section 43 taken with sections 111 to 119 (both inclusive) are intended to regulate the municipal scavenging of private dwellings, and replace sections 40 and 101 of the present Act. The law as it now stands has been found to be unworkable. It involves repeated negotiations with a succession of individual occupiers, and any arrangements made by the committee can at any time be disorganized by private dissent. Moreover, the phrase "duties usually performed by sweepers" is of very vague and uncertain import. It might very well be held to include duties of a domestic and private nature which the municipal committee could not possibly undertake. And, if this were held to be the case, the present law on that ground alone would become ineffectual. The new proposals limit municipal scavenging to what is practically possible and provide for the committee undertaking it without being compelled to procure individual assents, though not without being compelled to consider possible individual grievances. Attempts are also made to provide adequate safeguards for agriculturists wishing to secure their own manure, and for the caste or customary rights by which guilds of sweepers in some towns claim the exclusive right of scavenging the houses of particular quarters. These rights are very inconvenient obstacles in the way of proper sanitation, but the new proposals will nevertheless protect them so long as the correlative duties are adequately discharged.

8. *Section 45.*—Sub-section (6) of this section is intended to make section 42 of the present Act more generally convenient. It has been held that the year mentioned in that section must begin on the 1st of January. The amendment of section 58 is a corollary of section 45, sub-section (8).

9. *Sections 52 and 53.*—The additions to these sections are intended to remedy grievances which have been complained of by taxpayers in Simla. Similarly, section 61 (with which should be read sub-section (2) of section 50) is intended to remedy ascertained defects in the procedure as to remissions in whole or in part of assessed taxation.

10. *Sections 69 and 70.*—The sections supply what is believed to be an omission in the present Act as to punishment for octroi frauds. It also compels inhabitants of a municipality to furnish necessary information as to taxable liability. The want of this power in the present Act has been seriously complained of in Delhi.

11. *Section 72.*—The addition to clause (k) of sub-section (2) is intended to provide for expenditure out of the municipal fund on such objects as an Imperial census or the celebration of a Jubilee or other like object.

12. *Section 73.*—This section provides for the payment of a municipal president. A paid president is to be appointed for Simla.

13. *Section 76.*—Clause (d), as amended, will give to the committee the property in refuse deposited in municipal receptacles. Any other arrangement is manifestly impossible, but the want of an express legal provision recently led to the abandonment of a reformed system of conservancy in one of the towns of the Province.

14. *Section 92.*—This section re-enacts section 88 of the present Act with some important changes. In the first place, no compensation is to be given for prohibiting the erection of new buildings. At present compensation is payable, and the power to prohibit is therefore nugatory. At the same time, however, section 151 of the Bill gives an appeal against prohibition of erection. In the second place, the law as it at present stands compels the committee to take action within one month of receipt of notice of intention to build. But it prescribes no time for the submission to the committee of the plan of the buildings and prescribes no conditions which the plan must fulfil. It is therefore comparatively easy to evade the committee's jurisdiction under this section. The new proposals practically require the notice to be accompanied by the plan and allow the committee, with the sanction of the Local Government, to prescribe what the plan shall contain.

15. *Sections 93, 104 and 105.*—These are new proposals intended principally to provide safeguards in the bazars of hill municipalities which are peculiarly exposed to risks from fire. Section 105, however, will be of general application.

16. *Section 100.*—This section is intended to provide for the proper disposal of dead animals.

17. *Section 120.*—This section is the corollary of and sanction for section 105.

18. *Section 137.*—This section was framed in consequence of representations from Simla. It is a new proposal, and is principally intended to give power to regulate the trade

in food so far as may be necessary in any case to secure its cleanly preparation, and to exclude from certain thoroughfares offensive shops, such as those of butchers or spirit-sellers. The section is mainly, though not exclusively, intended for use in hill municipalities.

19. *Sections 138-143.*—These are new proposals to diminish danger from mad dogs and from infectious diseases. They are adapted from the City of Bombay Municipal Act, 1888.

20. *Section 145.*—This section is new, and in some respects follows the principle of the Darjeeling Act, V of 1883 (B. C.), for the regulation of hired coolies and vehicles in a hill municipality.

21. *Sections 146, 147, 151 and 170.*—Sections 146 and 147 are required in consequence of the extended power of rule-making given to committees by the Bill. Similarly, as the Bill gives larger powers to committees, a somewhat larger power of appeal against their decisions is given by sections 151 and 170.

22. *Sections 171-174.*—These sections provide for the establishment and working of fire-brigades.

23. *Section 183.*—A sub-section has been added giving to the Local Government in more express terms the power to deal generally with corrupt practices or intimidation at municipal elections.

24. *Sections 185 and 186.*—Section 185 is intended to enable the committee to institute prosecutions by an easier process than that of the present law, which in many cases is practically unworkable. Similarly, section 186 is intended to make ordinary sanitary police more effective.

25. *Section 202.*—This section is an adaptation of the provisions of laws passed by the Bombay and Bengal Councils for the prevention of a sweeper strike.

26. Lastly, sections 209 to 213 (both inclusive) are intended to provide for such sanitary and other measures as may be possible in small towns which are not fit to be treated as municipalities, but in which improved arrangements are often extremely desirable. Kalka is an excellent instance of one such place.

*The 6th August, 1891.*

PHIL. P. HUTCHINS.

S. HARVEY JAMES,

*Secretary to the Government of India.*



# The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 22, 1891.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, or Reports of Select Committees presented to the Council.

### GOVERNMENT OF INDIA.

#### LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th August 1891, and was referred to a Select Committee:

NO. 13 OF 1891.

*A Bill to amend the Lower Burma Municipal Act, 1884.*

WHEREAS it is expedient to amend the Lower Burma Municipal Act, 1884; It is hereby enacted as follows:

1. In section 2 of the Lower Burma Municipal Act, 1884, the word "and" at the end of the definition of "inhabitant" shall be omitted, and, after the definition of "street," the following shall be inserted, namely:

"'sewage' means night-soil and other proper contents of water-closets, latrines, urinals, privies, drains and cesspools:

"'drain' includes a sewer, pipe, ditch or channel, or any other device for carrying off sulliage, sewage or polluted water: and

"'drainage-connection' includes—

(a) any drain or pipe between any water-closet, latrine, urinal, privy, bathroom, cookroom, sink, sulliage-tray, manhole or trap on the one hand and any sewer or drain set apart by the committee for sulliage, sewage and other offensive matter on the other hand, and

(b) any cistern, flush-tank, land, building, machinery, work or thing for collecting and passing into any sewer or drain vested in the municipal committee, or

used for so collecting and passing, any sulliage, sewage or polluted water."

2. In section 41, sub-section (r), division (A), of the said Act the following shall be added after clause (d), namely:

"(e) a tax on vehicles and animals used as aforesaid entering the municipality."

3. For section 75 of the said Act the following shall be substituted, namely:

"75. (r) Every person intending to erect or re-erect any building shall, if required by rule made by the committee in this behalf to do so, give notice in writing of his intention to the committee, and shall, if required by rule made by the committee in this behalf to do so, submit with such notice—

(i) a site-plan of the land;

(ii) where the land belongs to the Government or the committee, a certified copy of the document or documents authorizing him to occupy the land, and, on the requisition of the committee, the original document or documents also if the committee desires to inspect it or them;

(iii) a plan showing the levels at which the foundation and lowest floor or plinth are proposed to be laid, and specifications of the work intended to be constructed and the materials to be used.

"(2) The committee may at any time within one month thereafter, by notice, either prohibit the erection or re-erection of such building if deemed likely to be injurious to the inhabitants of the neighbourhood, or give any directions



consistent with this Act in respect of all or any of the matters following, namely :

- (a) trespass or encroachment on land belonging to the Government or the committee ;
- (b) free passage or way in front of the building ;
- (c) space to be left about the building to secure free circulation of air and facilitate scavenging ;
- (d) ventilation and drainage ;
- (e) level and width of foundation, level of lowest floor or of plinth and stability of structure ;
- (f) line of frontage with neighbouring buildings if the building abuts on a street or public thoroughfare ; and
- (g) situation of water-closets, latrines, urinals, privies, drains, cesspools, traps, sinks, sulliage-trays and wells :

Provided that the committee shall make full compensation to the owner for any damage which he may sustain in consequence of the prohibition of the erection or re-erection of any building, or of its requiring any land belonging to him to be added to the street.

"(3) If any building is begun or erected or re-erected in contravention of any such rule as aforesaid, or in disobedience to any such prohibition as aforesaid, or in contravention of any such written direction as aforesaid, the committee may, by notice, require the building to be altered or demolished, as it may deem necessary.

"(4) The expression 'erect or re-erect any building' includes—

- (a) any material alteration or enlargement of any building, or
- (b) the conversion into a place for human habitation of any building not originally constructed for human habitation, or
- (c) the conversion into more than one place for human habitation of a building originally constructed as one such place, or
- (d) the conversion of two or more places of human habitation into a greater or less number of such places or into one such place, or
- (e) such alteration of the internal arrangements of a building as effects an alteration of its drainage or sanitary arrangements, or
- (f) the addition of any rooms, buildings, out-houses or other structures to any building."

4. For section 91 of the said Act the following Substitution of new section for section 91, Act XVII, 1884. shall be substituted, namely :

"91. (1) The committee may, by notice, require the owner of any building or land to provide, in such manner as the committee may direct, any water-closet, latrine, urinal,

privy, drain, cesspool, trap, sink or sulliage-tray, or any additional water-closets, latrines, urinals, privies, drains, cesspools, traps, sinks or sulliage-trays, which should, in its opinion, be provided for the building or land.

"(2) The committee may, by notice, require any persons employing more than twenty workmen or labourers to provide such water-closets, latrines, urinals, privies, drains, cesspools, traps, sinks or sulliage-trays as it may think fit, and to cause the same to be kept in proper order and to be daily cleaned.

"(3) The committee may, by notice, require the owner or occupier of any building or land to have any water-closet, latrine, urinal or privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the committee directs, any door or trap-door of a water-closet, latrine, urinal or privy opening on to any street or drain."

Substitution of new section for section 92, Act XVII, 1884.

5. For section 92 of the said Act the following shall be substituted, namely :

"92. (1) The committee may, by notice, require the owner or occupier of any building or land to close or remove, or to repair or alter and put in good order, any water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray belonging thereto.

"(2) The committee may, by notice, require any person who constructs any new water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray without its permission in writing or contrary to its directions or regulations or to the provisions of this Act, or who constructs, re-builds or opens any water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray which it has ordered to be demolished or stopped up or not to be made, to demolish the water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray, or to make such alteration therein as it thinks fit.

"(3) Where any building or land situated within one hundred feet of one of the sewers or drains set apart by the committee for sulliage, sewage or other offensive matter is at any time not drained to the satisfaction of the committee by any or a sufficient drainage-connection with such sewer or drain, the committee may by notice require the owner of such building or land to make and maintain a drainage-connection with the sewer or drain in such manner as the committee may, by rule made with the sanction of the Local Government, direct.

"(4) The provisions of sections 109 and 110 of this Act shall apply to any default in compliance with any such requisition, notwithstanding that part of the land through which the said drainage-connection is required to pass may not belong to the person so making default, unless he shall prove that the default was caused by the act of the owner or occupier of such last-mentioned land."

## STATEMENT OF OBJECTS AND REASONS.

THE Rangoon Municipal Committee has constructed for the use of the town a hydro-pneumatic system of drainage. The system was completed in April, 1890, and has since been in working order; but up to date only ten per centum of the houses capable of being connected with the sewers have been connected. It is necessary for the health of the town that the connection of all houses which can be connected with the sewers should be completed as soon as possible. The main object of this Bill is so to amend Act XVII of 1884 as to meet a decision of the learned Recorder of Rangoon to the effect that the municipal committee has at present no power under the Lower Burma Municipal Act, 1884, to compel house-owners to connect their premises with a system of sewers not contemplated when the Act was passed.

Though the Act is intended primarily for Rangoon, yet, as it only adds to without otherwise changing the Act of 1884, it is made applicable to the whole of Lower Burma.

2. The object of section 2 of the Bill is to extend to Lower Burma a clause which is in force in the North-Western Provinces and Oudh, the Punjab, the Central Provinces and Ajmere.

3. Section 3 of the Bill has been framed to give more control over the erection of buildings on land within municipal limits which belongs to the Government or a municipal committee. The more ignorant classes regard a municipal permit to build a house as equivalent to a Government grant of the site. The less scrupulous run up a wooden house quickly without the knowledge of the revenue-officers and defy the revenue-officers to eject them without a suit. It is desirable, therefore, by an amendment of the section to prevent any misunderstanding or inconvenience.

*The 19th August, 1891.*

PHIL. P. HUTCHINS.

S. HARVEY JAMES,

*Secretary to the Government of India.*



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## PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, or Reports of Select Committees presented to the Council.

### GOVERNMENT OF INDIA. LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Law of Evidence with respect to Bankers' Books was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th September 1891:

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Law of Evidence with respect to Bankers' Books was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Officiating Director General, Post Office of India, No. 12471, dated 13th February, 1891 [Paper No. 1].  
Telegram from Resident, Hyderabad, No. 79, dated 26th February, 1891 [Paper No. 2].  
From High Court, Calcutta, No. 552, dated 3rd March, 1891 [Paper No. 3].  
From Chief Commissioner, Burma, No. 664-4L., dated 28th February, 1891, and enclosure [Papers No. 4].  
From Government, Bengal, No. 949], dated 2nd March, 1891, and enclosures [Papers No. 5].  
From Chief Commissioner, Central Provinces, No. 1283-132, dated 2nd March, 1891 [Paper No. 6].  
From Governor General's Agent, Baluchistan, No. 1163, dated 2nd March, 1891 [Paper No. 7].  
From Chief Commissioner, Ajmere-Merwara, No. 392C., dated 4th March, 1891 [Paper No. 8].  
From Government, North-Western Provinces and Oudh, No. 193, dated 7th March, 1891, and enclosures [Papers No. 9].  
From Chief Commissioner, Coorg, No. 426-21-91, dated 3rd March, 1891 [Paper No. 10].  
From Government, Madras, No. 434 (Judicial), dated 5th March, 1891, and enclosures [Papers No. 11].  
Endorsement by Home Department, No. 371, dated 17th March, 1891, and enclosure [Papers No. 12].  
From Government, Punjab, No. 303, dated 13th March, 1891, and enclosures [Papers No. 13].  
From Chief Commissioner, Assam, No. 54T., dated 21st March, 1891 [Paper No. 14].  
From Government, Bombay, No. 1619, dated 17th March, 1891, and enclosures [Papers No. 15].

2. Section 2.  
—We have amended sub-section (1) so as to include in the definition of "company" the Presidency Banks.

We have omitted from clause (a) of sub-section (2) the reference to a Government Savings Bank. We consider the accounts of such banks, as well as those of the Money Order Department of the Post Office and of Government treasuries, to be "public documents" within the meaning of section 74 of the Evidence Act,\* and covered therefore by section 65 of that Act.

\* Act I of 1872.

We have added a clause (b) to sub-section (2) so as to include under the term "bank" or "banker" any partnership (not coming under the definition of "company") or individual to whom the Local Government may under section 3 extend the provisions of the Act.



We have also added definitions of the terms "trial" and "certified copy" so as to make the provisions of the Bill compact and readily intelligible.

3. *Section 3.*—This section is new. It has been brought to our notice that there are in India several large private banks to whom the privileges contemplated by this Bill may safely and fairly be extended. As, however, it is not desirable to extend the privileges to all private banks, we have given power to the Local Government to decide each case on its merits. We consider, however, that these privileges should not be extended to any partnership or individual carrying on the business of bankers which does not keep at least the three account books specified in the section which are absolutely essential to a proper system of accounts.

4. *Section 4 (old section 3).*—We have amended this section so as to bring the provisions of the Bill into accord with section 34 of the Evidence Act.\*

\* Act I of 1872.

5. We have omitted sections 4 and 5 of the original Bill altogether. We consider that no copy of any entry should be receivable in evidence in any legal proceeding unless it is a "certified copy" as defined in the revised Bill. That definition, read with section 4 of the Bill, seems to us to meet all the requirements of the case. Certified copies of entries in the accounts of privileged banks will now be on the same footing as certified copies of public documents.

6. *Section 5.*—We consider that it is inadvisable in the public interests to restrict the power conferred by this section to a Judge of a High Court. Such a restriction might, and probably would, involve in many cases unnecessary expense and delay. We have therefore extended the power to the Court before which the legal proceeding in question is held or taken (section 2 (5)).

7. *Section 6.*—We have enlarged sub-section (1) so as to allow the Court or a Judge to permit the bank to prepare and produce certified copies of all relevant entries as an alternative to allowing parties to inspect and take copies for themselves. It is probable that in many cases it may, in the interests of the bank or its clients, be highly undesirable to allow an inspection of the bank's books.

We have amended sub-section (2) so as to require that in ordinary cases due notice of any order under section 5 or under section 6, sub-section (1), shall be given to the bank; and we have added a sub-section (3) allowing the bank to show cause against any such order.

8. *Section 7.*—We have altered this section so as to make it clear that costs awarded to a bank, as well as costs awarded against it, may be enforced as if the bank were a party.

9. We have not thought it necessary to provide special penalties for the fraudulent or dishonest making or using of false certificates, as we consider that the provisions of the Penal Code are sufficient for this purpose.

10. The publication ordered by the Council has been made as follows:—

In English.		
Gazette.		Date.
Gazette of India		7th February, 1891.
Fort Saint George Gazette		17th February, 1891.
Bombay Government Gazette		12th February, 1891.
Calcutta Gazette		11th February, 1891.
North-Western Provinces and Oudh Government Gazette		14th February, 1891.
Punjab Government Gazette		19th February, 1891.
Central Provinces Gazette		14th February, 1891.
Burma Gazette		21st February, 1891.
Assam Gazette		21st February, 1891.
Coorg District Gazette		2nd March, 1891.
In the Vernaculars.		
Province.	Language.	Date.
Madras	Tamil	2nd March, 1891.
	Telugu	2nd March, 1891.
	Kanarese	2nd March, 1891.
	Hindustani	10th March, 1891.
	Malayalam	10th March, 1891.
Bengal	Uriya	19th February, 1891.
	Bengali	24th February, 1891.
	Hindi	3rd March, 1891.
North-Western Provinces and Oudh	Urdu	28th February, 1891.
Assam	Bengali	7th March, 1891.
Coorg	Kanarese	1st April, 1891.

11. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

ALEX. EDW. MILLER.  
PHIL. P. HUTCHINS.  
W. H. RATTIGAN.

The 17th September, 1891.

## No. II.

*A Bill to amend the Law of Evidence with respect to Bankers' Books.*

WHEREAS it is expedient to amend the Law of Evidence with respect to Bankers' Books; It is hereby enacted as follows:—

Title, extent and commencement. 1. (1) This Act may be called the Bankers' Books Evidence Act, 1891.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "company" means a company registered under any of the enactments relating to companies from time to time in force in British India, or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent;

(2) "bank" and "banker" mean—

(a) any company carrying on the business of bankers,

(b) any partnership or individual to whose books the provisions of this Act shall have been extended as hereinafter provided;

(3) "bankers' books" include ledgers, day-books, cash-books, account-books and all other books used in the ordinary business of a bank;

(4) "legal proceeding" means any proceeding or inquiry in which evidence is or may be given, and includes an arbitration;

(5) "the Court" means the person or persons before whom a legal proceeding is held or taken;

(6) "Judge" means a Judge of a High Court;

(7) "trial" means any hearing before the Court at which evidence is taken; and

(8) "certified copy" means a copy of any entry in the books of a bank, together with a certificate written at the foot of such copy that it is a true copy of such entry; that such entry is contained in one of the ordinary books of the bank, and was made in the usual and ordinary course of business; and that such book is still in the custody of the bank, such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title.

3. The Local Government may, from time to time, by notification in the official Gazette, extend the provisions of this Act

to the books of any partnership or individual carrying on the business of bankers within the territories under its administration, and keeping a set of not less than three ordinary account books, namely, a cash-book, a day-book or journal and a ledger, and may in like manner rescind any such notification.

4. Subject to the provisions of this Act, a certified copy of any entry in a

banker's book shall in all legal proceedings be received as *prima facie* evidence of the existence

of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.

5. No officer of a bank shall in any legal proceeding to which the bank is not a party be compellable to produce any banker's book the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

6. (1) On the application of any party to a legal proceeding the Court by order of Court or a Judge may order that such party be at liberty to

inspect and take copies of any entries in a banker's book for any of the purposes of such proceeding, or may order the bank to prepare and produce, within a time to be specified in the order, certified copies of all such entries, accompanied by a further certificate that no other entries are to be found in the books of the bank relevant to the matters in issue in such proceeding, and such further certificate shall be dated and subscribed in manner hereinbefore directed in reference to certified copies.

(2) An order under this or the preceding section may be made either with or without summoning the bank, and shall be served on the bank three clear days (exclusive of bank holidays) before the same is to be obeyed, unless the Court or Judge shall otherwise direct.

(3) The bank may at any time before the time limited for obedience to any such order as aforesaid either offer to produce their books at the trial or give notice of their intention to show cause against such order, and thereupon the same shall not be enforced without further order.

7. (1) The costs of any application to the Court or a Judge under or for the purposes of this

Act and the costs of anything done or to be done under an order of the Court or a Judge made under or for the purposes of this Act shall be in the discretion of the Court or Judge, who may further order such costs or any part thereof to be paid to any party by the bank if they have been incurred in consequence of any fault or improper delay on the part of the bank.

(2) Any order made under this section for the payment of costs to or by a bank may be enforced as if the bank were a party to the proceeding.

(3) Any order under this section awarding costs may, on application to any Court of Civil Judicature designated in the order, be executed by such Court as if the order were a decree for money passed by itself;

Provided that nothing in this sub-section shall be construed to derogate from any power which the Court or Judge making the order may possess for the enforcement of its or his directions with respect to the payment of costs.

L. PORTER,

Offg. Secretary to the Government of India.



# The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 3, 1891.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, or Reports of Select Committees presented to the Council.

### GOVERNMENT OF INDIA. LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to make better provision for the administration of Municipalities in the Punjab was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 1st October 1891 :

We, the undersigned Members of the Select Committee to which the

From Chief Court, to Government, Punjab, No. 3513-G, dated 20th August, 1891; from Government Advocate, to ditto, No. 81-D. A., dated 21st August, 1891; from Commissioner and Superintendent, Peshawar Division, to ditto, No. 173, dated 22nd August, 1891, and enclosure [Papers No. 1].

From J. Elston, Esq., Simla, dated 4th September, 1891 [Paper No. 2].

From Chief Court, to Government, Punjab, No. 3566-G, dated 31st August, 1891 [Paper No. 3].

Memorandum by Vice-President, Simla Municipal Committee, dated 2nd and September, 1891, and enclosures [Paper No. 4].

From Commissioner and Superintendent, Jullundur Division, to Government, Punjab, No. 2129, dated 3rd September, 1891, and enclosures; endorsement by ditto, No. 2130, dated 3rd September, 1891, and enclosures [Papers No. 5].

From Commissioner and Superintendent, Delhi Division, to Government, Punjab, No. 402, dated 31st August, 1891, and enclosures; from Officiating Commissioner and Superintendent, Rawal Pindi Division, to Government, Punjab, No. 894-A. L. F., dated 25th August, 1891; from ditto, to ditto, No. 912-L. F., dated 1st September, 1891, and enclosure; from Commissioner and Superintendent, Derajat Division, to ditto, dated 31st August, 1891, and enclosures; from Commissioner and Superintendent, Lahore Division, to ditto, No. 334, dated 2nd September, 1891, and enclosures [Papers No. 6].

Endorsement by Commissioner, Lahore Division, No. 348, dated 7th September, 1891, and enclosure [Papers No. 7].

From W. E. Fleming, Esq., Simla, dated 15th September, 1891 [Paper No. 8].

as revised by us annexed thereto.

2. *Section 3.*—We have struck out the definition of "animal." In section 100 a special definition has been provided for the purposes of that section. Elsewhere in the Act no definition seems required.

We have added definitions of "rules" and "bye-laws" so as to distinguish between the regulations prescribed by the Local Government under the Act and those framed by committees.

3. *Section 5.*—We have provided that no committee shall consist of less than three members. As there was already a provision that the quorum at an ordinary meeting should not be less than three, we thought this condition essential to the consistency of the Bill.

4. *Section 7.*—We have made it clear that the power conferred on the Local Government by this section shall only be exercised for some reason affecting the public interests.

Bill to make better provision for the administration of Municipalities in the Punjab was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill



5. *Section 11.*—We consider that the removal of a member should be made by notification so as to secure full publicity, and we have added dismissal from the public service to the grounds for which a member may be removed. Further, we consider that absence from meetings for more than three months, to whatever cause it may be due, is a fair *prima facie* reason for removal.

We have removed section 14 of the Bill, as originally referred to us, to its proper place under the head "Officers and Servants."

6. *Section 15.*—We have given the committee power to declare, in the case of two vice-presidents elected on the same day, which shall be the senior. We believe that the want of some such provision has been felt.

7. *Section 18.*—It seems unnecessary to notify casual vacancies; this provision has therefore been omitted.

8. We have altered the position of section 19 of the Bill as originally referred to us. It now stands as section 41.

9. *Section 21.*—We have provided that the quorum at a special meeting of committee shall not be less than three; this was already provided for ordinary meetings.

10. *Section 26.*—We have made it clear that a vice-president may take action under this section when the office of president is vacant as well as when the president is merely absent.

11. *Section 30.*—Express power to remove or dismiss officers and servants has been conferred on committees, subject, however, to the other provisions of the Act (such as section 31) and to any rules which the Local Government may issue under the Act.

12. *Section 36 (1).*—We consider that the signature of at least two members, of whom the president or vice-president should be one, and the countersignature of the secretary, are necessary in the case of the contracts specified.

In sub-section (2) we have added the attestation of the secretary.

13. *Section 42.*—We have altered the word "tax" in sub-section (1), division A, clause (d), to "toll," and have provided that no toll shall be levied on any vehicle, &c., which has paid the tax under clause (c). A provision permitting compounding for tolls has also been added.

14. *Section 49.*—As some doubts have been expressed as to the meaning of the expression "defect of form," we have enlarged this section (on the lines of section 208 of the Madras Municipality Act) so as to show clearly what is meant.

Madras Act I of 1884.

15. *Section 50.*—We have omitted the definition of "payable by instalments." Owing to the alterations which we have made in section 62, no definition is now required.

16. *Section 52 (4).*—We consider that the costs in every appeal under this section should be in the discretion of the officer deciding the appeal, and we have modified the clause accordingly.

17. *Section 53 (2).*—We consider that the provisions of the Bill referred to us requiring the appellant against any assessment or tax to deposit with the committee the amount in dispute before his appeal can be entertained are inequitable; and we have omitted them. This omission involves the omission of clause (3) also, which provided for the disposal of such deposits.

18. *Section 55.*—We have transferred to this place section 70 of the Bill as referred to us. It comes more appropriately under the head "General Provisions" than under "Octroi and Tolls."

19. *Section 62.*—We have altered this section so as to empower the committee in its discretion to grant an equitable remission of the tax, whether payable by the year or by instalments, when the property has remained unoccupied and unproductive of rent for a period of not less than sixty consecutive days.

We have also provided that no remission for partial occupation shall be claimable unless the part unoccupied forms a separate tenement. In both these matters we have adopted the principles of the City of Bombay Municipal Act, 1888. We have laid the burden of proving the facts entitling any person to claim a remission on the person making the claim; and we have treated houses rented to a tenant who is entitled to occupy, but does not occupy, as occupied for the purpose of taxation.

20. *Section 73.*—We have inserted a provision that no salary shall be payable to a president who is a salaried officer of Government.

21. *Section 79.*—We consider that the power of determining the constitution of the police establishment should rest entirely with the Local Government, and not with the committee.

22. *Section 92.*—We have enlarged and re-modelled this section so as to make the provisions regulating the procedure to be followed by persons intending to erect new buildings clear and complete. We have added a clause to the effect that any sanction accorded to the erection of a new building shall lapse unless the building is commenced within one year of the date of the sanction. It is necessary to provide some period of limitation, and one year seems ample, especially as the lapse will not bar a fresh application.

23. *Section 94.*—This definition of the expression "erect or re-erect" has been founded on that given in the Burma Municipal Bill.

24. *Section 98 (r).*—We have substituted the word "premises" for "places" so as to make it clear that the building (if any) as well as the site is included.

25. *Section 104.*—We consider that this section as originally drafted gave too unlimited a power to the committee in respect of prohibiting the lighting of fires in upper storeys of buildings. We have therefore limited the power to cases in which, owing to the construction of the upper storey and proximity of other buildings, there is a reasonable ground for action.

26. *Section 120.*—We have added a new sub-section (4) providing for the disposal of articles seized under this section.

27. *Section 122.*—We have empowered the committee on certain conditions to require owners to connect their house drains with the public sewers. This provision has been taken from the Burma Municipal Bill, and is in our opinion very necessary.

28. *Section 138.*—We have given the committee the power of confining, or of causing to be confined, dogs suspected of rabies as well as of destroying them. In some cases extreme measures may be inadvisable so long as there is any reasonable doubt. We have omitted the section regarding the muzzling of dogs, as we are not satisfied that any such general scheme is practicable. The Local Government did not press the section.

29. *Section 139.*—We have modified clause (a) so as to make it compulsory on medical practitioners to report only in those cases which have come to their knowledge in the course of their practice.

30. *Section 143.*—We have given the committee power to inspect and regulate "dhobis' ghâts" and flour-mills in addition to the other places mentioned.

We have also given the committee power to control and regulate the admission for sale within municipal limits of the flesh of animals killed outside the municipality, but not at licensed slaughter-houses. It is desirable that the committee should have some power, as the Bombay Corporation has, to control slaughter-houses outside municipal limits.

We have empowered the committee to fix a period of limitation after which no claim for refund of octroi shall be entertained.

31. *Sections 147-48.*—We consider that it is impossible to lay down in each case whether the notice to do a certain act should be given to the owner or to the occupier. A discretion must be left to the committee to act equitably in each case. We have, however, laid down a general rule that the notice shall be given to the one of them primarily liable, and in case of doubt to both, and we have indicated, as far as it appears possible to do so, the principle by which this primary liability is to be decided.

32. *Section 151.*—This section is new, and provides for appeals in certain cases to which the general law or the other provisions of the Act do not apply.

33. *Section 171.*—This section is new. It is taken from section 412 of the City of Bombay Municipal Act, and appears to be required to give effect to bye-laws under section 143 (k).  
Bombay Act III of 1888.

34. *Section 173 (r).*—We have empowered the secretary of the committee to take action under this section.

35. *Section 182 (g).*—We consider that it should rest with the Local Government to decide whether a new committee should be constituted or not. We have therefore altered the words which appeared to make such constitution obligatory.

36. *Section 187.*—We have restricted the power of compounding offences to the president, vice-president and secretary, and to a sub-committee. We do not think that any member or other officer should be capable of being invested with that power. We have also enabled the Local Government to withdraw the power when once conferred.

37. *Section 191.*—We have allowed the committee to authorise any sub-committee to sign notices.

38. *Section 203.*—We have brought this section into conformity with the common law by requiring one month's notice in both cases. We have also restricted the power of extending this section to the case of servants whose functions intimately concern the public health or safety. In no other case would the extension be justifiable.

39. *Section 210 (3).*—The alteration in the closing words of this clause has been made at the request of His Honour the Lieutenant-Governor.

40. The other alterations, though numerous, are either purely verbal or intended solely to carry out the intention of the framers of the Bill.

41. The publication ordered by the Council has been made as follows:—

*In English.*

<i>Gazette.</i>	<i>Date.</i>
Gazette of India . . . . .	8th August, 1891.
Punjab Government Gazette . . . . .	13th August, 1891.

*In the Vernacular.*

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Punjab	Urdu	13th August, 1891.

42. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

W. H. RATTIGAN.  
PHIL. P. HUTCHINS.  
ALEX. EDW. MILLER.

*The 30th September, 1891.*

## No. II.

**THE PUNJAB MUNICIPAL BILL,  
1891.**

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[*Note.*—The portions in italics shew the alterations in and additions to Act XIII of 1884 made by the Select Committee.]

## No. II.

*A Bill to make better provision for the administration of Municipalities in the Punjab.*

WHEREAS it is expedient to make better provision for the administration of municipalities in the Punjab: It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

*Title, extent and commencement.* 1. (1) This Act may be called the Punjab Municipal Act, 1891.

(2) It extends only to the territories for the time being administered by the Lieutenant-Governor of the Punjab; and

(3) It shall come into force on such day as the Local Government may, by notification in the official Gazette, appoint in this behalf.

2. (1) *The Punjab Municipal Act, 1884, is XIII of 1884. Repeal.* hereby repealed:

(2) *But all municipalities constituted, committees established, limits defined, appointments, rules, regulations, bye-laws and orders made, notifications and notices issued, taxes, tolls, rates and fees imposed or assessed, contracts entered into and suits instituted under the said Act, or under the Punjab Municipal Act, 1873, or any enactment thereby repealed, shall, so far as may be, be deemed to have been respectively constituted, established, defined, made, issued, imposed or assessed, entered into and instituted under this Act.*

IV of 1873.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "municipality" means any local area declared by or under this Act to be a municipality:

(2) "committee" means a municipal committee established by or under this Act:

(3) "inhabitant" includes any person ordinarily residing or carrying on business, or owning or occupying immoveable property, in any municipality or in any local area which the Local Government has by notification under this Act proposed to declare to be a municipality:

(4) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway:

*The Punjab Municipal Bill, 1891.*

*(Chapter I.—Preliminary.—Section 4. Chapter II.—Committees.—  
Sections 5-7).*

(5) "owner" includes the person for the time being receiving the rent of lands and buildings, or either of them, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or who would so receive the same if the land or building were let to a tenant:

(6) "explosive" and "petroleum" have the meanings assigned to those words in the Indian Explosives Act, 1884, and the Petroleum Act, 1886, respectively:

IV of 1884.  
XII of 1886.

(7) "notification" means a notification published under this Act in the official Gazette:

(8) "notified" means published as aforesaid:

(9) "rules" and "rule" mean respectively the rules made or to be made and notified by the Local Government under the authority of this Act, and any one of such rules: and

(10) "bye-laws" and "bye-law" mean respectively the regulations made or to be made by the committee at a special meeting under the authority of this Act, and any one of such regulations.

4. (1) The Local Government may, by notification, propose to declare any town or group of towns, together with or exclusive of any railway-station, village, building or land in the vicinity of any such town, or group of towns, a municipality under this Act:

Provided that no military cantonment or part of a military cantonment shall, without the consent of the Governor General in Council, be comprised in any such notification.

(2) Every such notification shall define the limits of the local area to which it relates.

(3) A copy of every notification under this section, with a translation in such vernacular language as the Local Government may direct, shall be affixed in some conspicuous place in the court-house of the Deputy Commissioner within whose jurisdiction the local area to which the notification relates lies, and in one or more conspicuous places in that local area.

(4) The Deputy Commissioner shall certify to the Local Government the date on which the copy and translation were so affixed, and the date so certified shall be deemed to be the date of publication of the notification.

(5) Should any inhabitant desire to object to a notification issued under sub-section (1), he may, within six weeks from the date of its publication, submit his objection in writing through the Deputy Commissioner to the Local Government, and the Local Government shall take his objection into consideration.

(6) When six weeks from the date of the publication have expired, and the Local Government has considered and passed orders on such objections as may have been submitted to it, the Local Government may, by notification, declare the local area to be, for the purposes of this Act, a municipality of the first or second class.

(7) A committee shall come into existence at such time as the Local Government may, by notification, appoint in this behalf.

## CHAPTER II.

### COMMITTEES.

#### *Constitution of Committees.*

5. (1) There shall be established for each municipality a committee having authority over the municipality and consisting of such number of members not less than three as the Local Government may fix in this behalf.

(2) Every such committee shall consist of members appointed by the Local Government either by name or by office, or of members elected from among the inhabitants in accordance with rules made under this Act, or partly of the one and partly of the other, as the Local Government may by notification direct:

Provided that—

(a) if the Local Government has directed that the elected members shall constitute the whole or any proportion of the committee, it shall not afterwards direct that they shall constitute any smaller proportion thereof except in compliance with the request of a majority of the electors for the time being, or for some reason which the Local Government may deem to affect the public interests; and,

(b) unless the Governor General in Council shall otherwise direct, the appointed members who are salaried officers of Government shall not exceed one-third of the whole committee.

(3) When, under a direction issued under sub-section (2), any places on a committee are required to be filled by election, and a sufficient number of members has not been elected, the Local Government may fill those places by appointment.

6. (1) If a member of committee is appointed by office, the person for the time being holding the office shall be a member of the committee until the Local Government shall otherwise direct.

(2) The term of office for which all other members of committee shall be appointed and elected respectively shall be fixed by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(3) An outgoing member may, if otherwise qualified, be re-elected or re-appointed.

7. The Local Government may at any time for any reason which it may deem to affect the public interests, by notification direct that a seat on any committee which is then filled by election shall thenceforth when vacant be filled by appointment, and it may also for a like reason and in the like manner direct that the seat of any elected member shall be vacated upon a date appointed in the notification;

and, in such last mentioned case the said seat shall be vacated accordingly notwithstanding anything to the contrary in this Act or in the rules thereunder.



*The Punjab Municipal Bill, 1891.**(Chapter II.—Committees.—Sections 8-15.)*

8. The Local Government may at any time by special provision notification direct that a seat on any committee then filled by appointment shall thenceforth when vacant be filled by election ;

and it may also direct that the seat of any appointed member shall be vacated upon a date appointed in the notification ;

and in such last mentioned case the said seat shall be vacated accordingly notwithstanding anything to the contrary in this Act or in the rules thereunder.

9. The Local Government may at any time fix the number of members to compose a committee below the number of members then composing the committee, and it may also by notification direct, so far as may be necessary to reduce the number of members to the number so fixed, that the seat of any specified member or members shall be vacated upon a date appointed in the notification ;

and, if such direction be given, the said seat or seats shall be vacated accordingly notwithstanding anything to the contrary in this Act or in the rules thereunder.

10. (1) Any member of committee who may wish to resign may forward his written resignation, through the president of the committee, to the Deputy Commissioner within whose jurisdiction the municipality lies.

(2) When the acceptance of the resignation by the Local Government has been communicated to the committee, the member shall be deemed to have vacated his seat.

Powers of the Local Government as to removal of members.

11. (1) The Local Government may by notification remove any member of committee—

- (a) if he refuses to act, or becomes, in the opinion of the Local Government, incapable of acting, or has been declared a bankrupt or an insolvent, or convicted of any such offence, or subjected by a Criminal Court to any such order as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member ;
- (b) if he has been declared by notification to be disqualified for employment in, or has been dismissed from, the public service ;
- (c) if he has absented himself for more than three consecutive months from the meetings of the committee ;
- (d) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace or order ; or
- (e) in the case of a salaried officer of the Government, if his continuance in office is, in the opinion of the Local Government, unnecessary or undesirable.

(2) A person removed under this section shall be disqualified for election unless and until the Local Government shall otherwise direct.

12. (1) Whenever a vacancy occurs by the death, resignation or removal of any elected member, a new member shall be elected in accordance

with the rules made under this Act to fill the place :

Provided that the Local Government may direct in any such case that the vacancy shall be left unfilled.

(2) Upon the death, resignation or removal of any appointed member, the Local Government may, if it shall think fit, appoint a new member to fill the place.

(3) Every person elected or appointed to fill a casual vacancy shall hold his seat for the time for and subject to the conditions upon which it was tenable by the person in whose place he has been so elected or appointed, and no longer ; but he may, if otherwise qualified, be re-elected or re-appointed.

13. Every committee shall be a body corporate by the name of the municipal committee of its municipality ; and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immovable, and, subject to the provisions of this Act, to transfer any property held by it, to contract and to do all other things necessary for the purposes of its constitution ; and may sue and be sued in its corporate name.

14. Every member of committee shall be deemed to be a municipal commissioner within the meaning of any enactment for the time being in force.

*President and Vice-President.*

15. (1) Every committee shall, from time to time, elect one of its members to be president, and the member so elected shall, if approved by the Local Government in the case of a first class committee, or by the Commissioner in the case of a second class committee, become president of the committee :

Provided that the committee, instead of electing a president and submitting his name for approval to the Local Government or the Commissioner, may apply to the Local Government or the Commissioner, as the case may be, to appoint a president from among its members, and that the Local Government may, by notification, exclude any committee from the operation of this sub-section ; and that in either of these cases, or if no election has been made within one month from the occurrence of a vacancy in the office of president, or if the person elected be not approved, the Local Government or the Commissioner, as the case may be, may, if it or he shall think fit, appoint one of the members of the committee to be president.

(2) Every committee may also, from time to time, elect one or two of its members to be vice-president or vice-presidents, and when two vice-presidents are elected on the same date shall declare which of them shall be deemed to be the senior.

(3) Every member elected or appointed under this section to be president or vice-president may be elected or appointed by office if he was appointed a member of the committee in the same way.

(4) If any president is elected or appointed by office, or if any vice-president is elected by office,

*The Punjab Municipal Bill, 1891.**(Chapter II.—Committees.—Sections 16-25)*

then the person who for the time being holds the office shall be president or vice-president of the committee, as the case may be, during the term fixed under section 16, sub-section (1), for retention of office by a president or vice-president.

**16. (1)** Every president shall hold office for such term, not exceeding three years, as the Local Government may, by rule, fix, and every vice-president shall hold office for such term as the committee may, by bye-law, fix.

**(2)** Whenever a president or vice-president vacates his seat or tenders in writing to the committee his resignation of his office, he shall vacate his office; and any president or vice-president may be removed from office by the Local Government in pursuance of a resolution to that effect passed by two-thirds of the members present at a special meeting.

**(3)** Every resignation of office tendered under this section shall be reported, as soon as may be, to the Deputy Commissioner.

**17. (1)** Upon the occurrence of any vacancy in the office of president or vice-president, a new president or vice-president shall be elected or appointed in manner provided by section 15.

**(2)** The person so elected or appointed to fill a casual vacancy shall hold office for the time for which it was tenable by the person in whose place he has been elected or appointed, and no longer, but he may, if otherwise qualified, be re-elected or re-appointed.

*Notification of Elections and Appointments.*

**18.** Every election and appointment of a member or president of a committee shall be notified, in the case of a municipality of the first class, by the Local Government, and, in the case of a municipality of the second class, by the Commissioner of the Division, and no such election or appointment shall take effect until it has been so notified.

*Conduct of Business.*

**19. (1)** Every committee shall meet for the transaction of business at least once in every month at such time as may, from time to time, be fixed by the bye-laws.

**(2)** The president or, in his absence, a vice-president may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-fifth of the members of committee, convene either an ordinary or a special meeting at any other time.

**20. (1)** Every meeting of committee shall be either ordinary or special.

**(2)** Any business may be transacted at an ordinary meeting unless required by this Act or the rules to be transacted at a special meeting.

**21. (1)** The quorum necessary for the transaction of business at a special meeting of committee shall be one-half of the committee, but shall not be less than three.

**(2)** The quorum necessary for the transaction of business at an ordinary meeting of

committee shall be such number or proportion of the members of committee as may, from time to time, be fixed by the bye-laws, but shall not be less than three:

Provided that, if at any ordinary or special meeting of committee a quorum is not present, the chairman shall adjourn the meeting to such other day as he may think fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting, whether there be a quorum present thereat or not.

**22.** At every meeting of committee the Chairman of meeting, if present, or in his absence, or during the vacancy of his office, the senior vice-president present, and if there be no president or vice-president present, then such one of their number as the members present may elect shall preside as chairman.

**23.** Except as otherwise provided by this Act or the rules, all questions which come before any meeting of committee shall be decided by a majority of the votes of the members present, the chairman of the meeting, in case of an equality of votes, having a second or casting vote.

**24. (1)** Minutes of the proceedings at each meeting of committee shall be drawn up and recorded in a book to be kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, shall be published in such manner as the Local Government may direct, and shall, at all reasonable times and without charge, be open to inspection by any inhabitant.

**(2)** A copy of every resolution passed at any meeting of committee shall, within three days from the date of the meeting, be forwarded to the Deputy Commissioner.

**25. (1)** Every committee may, from time to time, make bye-laws consistent with this Act and with the rules as to—

- (a) the time and place of its meetings;
- (b) the manner in which notice of ordinary and special meetings and adjourned meetings shall be given;
- (c) the quorum necessary for the transaction of business at ordinary meetings;
- (d) the conduct of proceedings at meetings and the adjournment of meetings;
- (e) the custody of the common seal and the purposes for which it shall be used;
- (f) the person or persons to be primarily responsible for the current executive administration and his or their powers; that is to say, what portion of the executive authority shall be exercised by the president, by a vice-president, by sub-committees, by individual members and by officers or servants of the committee;
- (g) the persons by whom receipts shall be granted on behalf of the committee for money received under this Act;
- (h) the appointment, duties, leave, suspension and removal of its officers and servants;

*The Punjab Municipal Bill, 1891.**(Chapter II.—Committees.—Sections 26-35.)*

(i) the term for which a vice-president shall hold office; and  
(j) all other similar matters.

(2) No bye-law made under clause (c) or clause (f) of sub-section (1) shall take effect until it has been approved by the Local Government.

(3) Every bye-law made under this section shall be published in such manner as the Local Government may direct.

26. In cases of emergency the president, or in his absence or during the vacancy of his office a vice-president, may direct the execution of any work or the doing of any act which the committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the municipal fund:

Extraordinary powers of president and vice-president in case of emergency.

Provided that—

(a) he shall not act under this section in contravention of any order of the committee; and

(b) every direction given under this section shall be reported to the next following meeting of committee.

*Joint Committees.*

27. A committee may concur with any other committee, or with any district board, or with any

Joint committees.

cantonment authority, or with more than one such committee, board or authority, in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in delegating to any such joint committee any power which might be exercised by either or any of the committees, boards or authorities concerned, and in framing or modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating thereto.

*Defects in Constitution and Irregularities.*

28. No act done or proceeding taken under this Act shall be questioned on the ground merely of the existence of any vacancy in any committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case.

Vacancies and irregularities not to invalidate proceedings.

*Officers and Servants.*

29. (1) Every committee shall, from time to time, at a special meeting, appoint one of its members, or, if the Commissioner consent to its appointing a person not a member, any other person, to be its secretary, and may, at a like meeting, remove any person so appointed.

(2) When a member of committee is appointed secretary, he shall receive no remuneration in respect of his services. When any other person is appointed secretary, the committee may, with the previous sanction of the Commissioner, assign to him such pay as it may think fit.

30. Subject to the provisions of this Act and the rules, a committee may employ, in addition to its secretary, such other

Employment of other officers and servants.

officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such pay as it may think fit, and may remove or dismiss any officer or servant so appointed.

31. A Government official who has been continuously employed by a committee from the commencement of the Punjab Municipal Act, 1884, and who is in the employment of the committee at the commencement of this Act, shall not be dismissed from that employment without the sanction of the Local Government.

XIII of 1884.

32. If, in the opinion of the Commissioner, the number of persons employed by a committee as officers or servants, or whom the committee may propose to employ as such, or the remuneration assigned by the committee to those persons or any of them, is excessive, the committee shall, on the requirement of the Commissioner, reduce the number of those persons or the remuneration, as the case may be.

Provided that the committee may appeal against any such requirement to the Local Government, and the decision of the Local Government on any such appeal shall be final.

Pensions of Government officials serving committees.

33. In the case of an officer or servant being a Government official, a committee may,—

(1) if his services are wholly lent to it, subscribe for his pension or gratuity and leave-allowances in accordance with the Civil Service Regulations for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the committee, make such contribution on account of his pension or gratuity and leave-allowances as the Government may determine.

34. In the case of an officer or servant not being a Government official, a committee may—

(1) grant him leave-allowances and, if he is not entitled to pension or if his monthly pay is less than ten rupees, a gratuity; and

(2) if empowered in this behalf by the Local Government,—

(a) subscribe on his behalf for pension or gratuity under the Civil Service Regulations for the time being in force; or

(b) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which under the Civil Service Regulations for the time being in force the officer or servant would be entitled if the service had been service under the Government.

*Contracts.*

35. (1) The committee of any municipality of the first class may, subject to the provisions of this Act, delegate to one or more of its members the power of entering on its behalf into any particular contract whereof the value or amount does not exceed five hundred rupees, or into any class of such contracts.

Authority to contract.

*The Punjab Municipal Bill, 1891.**(Chapter II.—Committees.—Sections 36-41. Chapter III.—Taxation.—Section 42.)*

(2) No contract by or in behalf of any committee whereof the value or amount exceeds five hundred rupees shall be entered into until it has been sanctioned at a meeting of committee.

36. (1) Every contract made by or on behalf of the committee of any municipality of the first class whereof the value or amount exceeds one hundred rupees, and every contract made by or on behalf of the committee of any municipality of the second class whereof the value or amount exceeds fifty rupees, shall be in writing, and must be signed by two members, of whom the president or a vice-president shall be one, and countersigned by the secretary:

Provided that, when the power of entering into any contract on behalf of the committee has been delegated under the last foregoing section, the signature or signatures of the member or members to whom the power has been delegated shall be sufficient.

(2) Every transfer of immoveable property belonging to any committee must be made by an instrument in writing, executed by the president or vice-president, and by at least two other members of committee, whose execution thereof shall be attested by the secretary.

(3) No contract or transfer of the description mentioned in this section executed otherwise than in conformity with the provisions of this section shall be binding on the committee.

37. (1) If any member, officer or servant of a committee or of a joint committee is, without the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that committee, he shall be deemed to have committed an offence under the Indian Penal Code, section 163.

XLV of 1860.

(2) No member, officer or servant of a committee or of a joint committee shall by reason only of his being a shareholder in, or a member of, any incorporated or registered company, be held to be interested in any contract entered into between the said company and the committee or joint committee; but no such person as aforesaid shall take part in any proceedings of the committee or joint committee relating to any such contract.

*Privileges and Liabilities.*

38. No suit shall be instituted against a committee, or against any officer or servant of a committee in respect of any act purporting to be done in its or his official capacity, until the expiration of one month next after notice in writing has been, in the case of a committee delivered or left at its office, and in the case of an officer or servant delivered to him or left at his office or place of abode, stating the cause of action and the name and place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left:

Provided that nothing in this section shall apply to any suit instituted under section 54 of the Specific Relief Act, 1877.

39. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to a committee if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the committee; and a suit for compensation for the same may be instituted against him by the committee with the sanction of the Commissioner, or by the Secretary of State for India in Council, in such Court as the Local Government may direct.

*Acquisition of Land.*

40. Where any land, whether within or without the limits of a municipality, is required for the purposes of this Act, the Local Government may, at the request of the committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the committee of the compensation awarded under that Act, and of any other charges incurred in acquiring the land, the land shall vest in the committee.

X of 1870

*Delegation of Powers.*

41. (1) The powers and functions of the Local Government under section 5, sub-section (3), section 10, section 12, and section 25, sub-section (2), may be delegated by the Local Government to the Commissioner of the Division.

(2) In regard to powers or functions delegated to him under this section, every Commissioner shall have the same authority as is given by this Act to the Local Government, and the delegation shall continue until revoked by the Local Government.

(3) A delegation under this section may be of all or any of the powers and functions aforesaid, and may be made generally in regard to either all the municipalities, or all the municipalities of a particular class, within the division of the Commissioner, or it may be made particularly in regard to certain municipalities only.

(4) The delegation may be by name or by office.

## CHAPTER III.

## TAXATION.

*General Provisions.*

42. (1) Subject to any general or special orders which the Governor General in Council may make in this behalf, and to the rules, any committee may, from time to time, for the purposes of this Act, and in the manner directed by this Act, impose in the whole or any part of the municipality any of the following taxes and tolls, namely:—

(A) with the previous sanction of the Local Government:—

(a) a tax on buildings and lands—

(i) not exceeding in any municipality specified in the schedule 10 per cent., and elsewhere 7½ per cent., on the annual value; or



*The Punjab Municipal Bill, 1891.**(Chapter III.—Taxation.—Sections 43-45.)*

- (ii) not exceeding in any municipality specified in the schedule one anna four pies, and elsewhere one anna, per square yard of the ground area; or
- (iii) not exceeding in any municipality specified in the schedule four rupees, and elsewhere three rupees, per running foot of frontage in streets or bazars;
- (b) a tax on persons practising any profession or art or carrying on any trade or calling in the municipality;
- (c) a tax on all or any vehicles, boats, animals used for riding, driving, draught or burden, and dogs, when the vehicles, boats, animals used as aforesaid, and dogs, are kept within the municipality;
- (d) a toll on vehicles and animals used as aforesaid entering the municipality and not liable to taxation under the preceding clause;
- (e) a tax on menial and domestic servants;
- (f) an octroi on animals or goods or both brought within the octroi-limits for consumption or use therein; and
- (B) with the previous sanction of the Local Government and of the Governor General in Council, any other tax:

*Provided that any person may compound for exemption from all tolls leviable in respect of any animal or vehicle under clause (d) of this sub-section by paying the tax which would have been leviable in respect thereof under clause (c) if the same had been kept within the municipality.*

(2) In this section "annual value" means the gross annual rent for which buildings and lands liable to taxation may reasonably be expected to let, and, in the case of houses, may be expected to let unfurnished:

Provided that, in the case of land assessed to land-revenue or of which the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, the annual value shall, if the Local Government so direct, be deemed to be double the aggregate of the following amounts, namely:—

- (a) the amount of the land-revenue for the time being assessed on the land, whether such assessment is leviable or not; or, when the land-revenue has been wholly or in part compounded for or redeemed, the amount which, but for such composition or redemption, would have been leviable; and
- (b) when the improvement of the land due to canal-irrigation has been excluded from account in assessing the land-revenue, the amount of the owner's rate or water-advantage rate or other rate imposed in respect of such improvement.

43. When a committee has, in exercise of the powers conferred by this Act, undertaken the house-scavenging of any house or building, it may charge the occupier of such house or building, in respect of the house-scavenging done for him, with a tax, imposed in

manner directed by this Act, at such rate as it may think fit.

44. (1) Besides the taxes mentioned in the foregoing sections, a committee, with the previous sanction of the Local Government, may, for the purpose of constructing or maintaining works for the supply of water to the municipality or paying the principal or interest of any loan raised for the construction of such works, impose, in manner directed by this Act, a tax, to be called the water-tax, upon buildings or lands which are so situated that their occupiers can benefit by the works.

(2) The rate or amount of the tax so imposed on different buildings or lands may be determined with reference, among other considerations, to their distance from the nearest point at which the water is deliverable by the works and to their level; but in fixing it regard shall be had to the principle that the total net proceeds of the tax, with the estimated income from payments for water supplied from the works under special contracts, should not exceed the amount required for the said purposes.

45. (1) A committee may, at a special meeting, pass a resolution to propose the imposition of any tax under section 42, section 43 or section 44.

(2) When such a resolution has been passed the committee shall publish a notice, defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted.

(3) Any inhabitant objecting to the proposed tax may, within thirty days from the publication of the said notice, submit his objection in writing to the committee; and the committee shall, at a special meeting, take his objection into consideration.

(4) If no such objection is received within the said period of thirty days, or if all such objections, having been considered as aforesaid, are deemed insufficient, the committee may forward its proposal to the Local Government, with the objections (if any) which have been submitted as aforesaid, and its decision thereupon.

(5) The Local Government, on receiving such proposal, may sanction or refuse to sanction the same, or return it to the committee for further consideration.

(6) When any such proposal which requires the further sanction of the Governor General in Council has been sanctioned by the Local Government, it shall submit the same to the Governor General in Council, with the objections (if any) received through the committee; and the Governor General in Council may sanction the proposal, or refuse to sanction it, or return it to the Local Government for further consideration.

(7) When any proposal of a committee has been sanctioned by the Local Government, or by the Local Government and the Governor General in Council, as the case may be, the committee may, at a special meeting, direct the imposition of the tax in accordance with such proposal.

*The Punjab Municipal Bill, 1891.**(Chapter III.—Taxation.—Sections 46-53.)*

(8) *In giving such direction the committee shall fix a date on which the tax shall come into force:*

*Provided that—*

(a) *no tax shall come into force until its imposition has been notified:*

(b) *no tax shall come into force in less than three months from the date of the meeting at which its imposition is directed:*

(c) *a tax leviable by the year shall come into force on the first day of January or on the first day of April or on the first day of July or on the first day of October in any year; and, if it comes into force on any day other than the first day of January, shall be leviable by the quarter till the first day of January then next ensuing.*

(9) *A notification of the imposition of a tax under this Act shall be conclusive evidence that the tax has been imposed in accordance with the provisions of this Act.*

46. A committee may, by a resolution passed at a special meeting and confirmed by the Local Government, abolish or reduce in amount any tax imposed under the foregoing sections.

47. (1) A committee may exempt, in whole or in part, for any period not exceeding one year, from the payment of any such tax any person who by reason of poverty may in its opinion be unable to pay the same, and may renew such exemption as often as may be necessary.

(2) A committee may, by resolution passed at a special meeting and confirmed by the Local Government, and the Local Government may by order, exempt in whole or in part from the payment of any such tax any person or class of persons or any property or description of property.

48. (1) If at any time it appears to the Local Government, on complaint made or otherwise, that any tax imposed under the foregoing sections is unfair in its incidence or that the levy thereof or of any part thereof is injurious to the interests of the general public, it may require the committee to take within a specified period measures to remove the objection; and, if within that period the requirement is not complied with to the satisfaction of the Local Government, the Local Government may by notification suspend the levy of the tax or of such part thereof until the objection has been removed.

(2) The Local Government may at any time by notification rescind any such suspension.

49. No assessment and no charge or demand of any tax made under the authority of this Act shall be impeached or affected by reason of any mistake in the name, residence, place of business or occupation of any person liable to pay the tax, or in the description of any property or thing liable to the tax, or of any mistake in the amount of assessment or tax, or by reason of any clerical error or other defect of form; and it shall be enough in any such tax

on property, or any assessment of value for the purpose of any such tax, if the property taxed or assessed is so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof.

50. Any tax imposed under the foregoing sections and payable periodically shall be payable on such dates and in such instalments (if any) as the committee, with the previous sanction of the Deputy Commissioner, may from time to time direct.

51. For all sums paid on account of any tax under this Act a receipt, stating the amount and the tax on account of which it has been paid, shall be given by the person receiving the same, on request by the person making the payment.

52. (1) An appeal against the assessment or levy of any tax under this Act shall lie to the Deputy Commissioner or to such other officer as may be empowered by the Local Government in this behalf:

*Provided that, when the Deputy Commissioner or such other officer as aforesaid is a member of the committee, the appeal shall lie to the Commissioner of the Division.*

(2) If, on the hearing of an appeal under this section, any question as to the liability to, or the principle of assessment of, a tax arises, on which the officer hearing the appeal entertains reasonable doubt, he may, either of his own motion or on the application of any person interested, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement with his own opinion on the point for the decision of the Chief Court.

(3) On a reference being made under sub-section (2), the subsequent proceedings in the case shall be, as nearly as may be, in conformity with the rules relating to references to the High Court contained in Chapter XLVI of the Code XIV of Civil Procedure.

(4) *In every appeal the costs shall be in the discretion of the officer deciding the appeal.*

(5) *Costs awarded under this section to the committee shall be recoverable by the committee as though they were arrears of a tax due from the appellant.*

(6) *If the committee fail to pay any costs awarded to an appellant within ten days after the date of the order for payment thereof, the officer awarding the costs may order the person having the custody of the balance of the municipal fund to pay the amount.*

53. (1) No appeal shall lie in respect of a tax, on any land or building, unless it is preferred within one month after the publication of the notice prescribed by section 59 (2) or section 61 or after the date of any final order under section 60, as the case may be, and no appeal shall lie in respect of any other tax unless it is preferred within one month from the time when the demand for the tax is made:

*Provided that an appeal may be admitted after the expiration of the period prescribed*

*The Punjab Municipal Bill, 1891.**(Chapter III.—Taxation.—Sections 54-62.)*

therefor by this section if the appellant satisfies the officer before whom the appeal is preferred that he had sufficient cause for not presenting the appeal within that period.

(2) *No appeal shall be entertained unless the appellant has paid all municipal taxes due from him to the committee up to the date of such appeal.*

54. No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than is provided in this Act.

55. (1) *The committee may, by written communication, call upon any inhabitant of the municipality to furnish such information as may be necessary in order to ascertain whether such inhabitant is liable to pay any municipal tax.*

(2) *If any inhabitant so called upon to furnish information omits to furnish it or furnishes information which is untrue, he shall be punishable with fine which may extend to one hundred rupees.*

*Taxes on Immoveable Property.*

56. (1) *The committee shall cause an assessment-list of all buildings and lands on which any tax is imposed to be prepared, containing—*

- (a) the name of the street or division in which the property is situated;
- (b) the designation of the property, either by name or by number, sufficient for identification;
- (c) the names of the owner and occupier, if known;
- (d) the annual value, area or length of frontage on which the property is assessed; and
- (e) the amount of the tax assessed thereon by the committee.

(2) For the purpose of preparing the list, the committee may require the owners or occupiers of the buildings or lands to furnish it with the returns of the measurements and of the rent or annual value.

57. When the assessment-list has been completed, the committee shall give public notice thereof, and of the place where the list or a copy thereof may be inspected; and every person claiming to be either owner or occupier of property included in the list, and any agent of such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

58. (1) *The committee shall at the time of the publication of such assessment-list give public notice of a time, not less than one month thereafter, when it will proceed to revise the valuation and assessment; and in all cases in which any property is for the first time assessed, or the assessment thereof is increased, it shall also give notice thereof to the owner or occupier of the property.*

(2) All objections to the valuation and assessment shall be made in writing before the time fixed in the notice, or orally or in writing at that time.

59. (1) After the objections have been entered into and the persons making them have been allowed an opportunity of being heard either in person or by authorized agent, as they may think fit, and the revision of the valuation and assessment has been completed, the amendments made in the list shall be authenticated by the signatures of not less than two members of the committee, who shall at the same time certify that no valid objection has been made to the valuation and assessment contained in the list, except in the cases in which amendments have been entered therein; and, subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax for the year commencing on the first day of January next ensuing, as also in the case of a tax then imposed for the first time for the period between the commencement of the tax and such first day of January.

(2) The list when amended under this section shall be deposited in the committee's office and shall there be open during office-hours to all owners or occupiers of property comprised therein, or the agents of such persons, and a public notice that it is so open shall forthwith be published.

60. (1) The committee may at any time amend the list by inserting the name of any person whose name ought to have been inserted, or by inserting any property which ought to have been inserted, or by altering the assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake, after giving notice, to any person interested in the amendment, of a time, not less than one month from the date of service of such notice, at which the amendment is to be made.

(2) Any person interested in any such amendment may tender his objection to the committee in writing before the time fixed in the notice, or orally or in writing at that time, and shall be allowed an opportunity of being heard in support of the same in person or by authorized agent, as he may think fit.

61. It shall be in the discretion of the committee to prepare a new assessment-list every year, or to adopt the valuation and assessment contained in the list for any year, with such alterations as may in particular cases be deemed necessary, as the valuation and assessment for the year following, giving the same notice of the valuation and assessment as if a new assessment-list had been prepared.

62. (1) *When any property assessed to a tax under section 42, sub-section (1), division A, clause (a), or under section 44 which is payable by the year or by instalments, has remained unoccupied and unproductive of rent throughout the year or the period in respect of which any instalment is payable, the committee shall remit the amount of the tax or of the instalment, as the case may be:*

*The Punjab Municipal Bill, 1891.**(Chapter III.—Taxation.—Sections 63-69.)*

*Provided that no such remission shall be granted unless notice in writing of the circumstances under which it is claimed has been given to the committee within the first month of the period in respect of which it is so claimed.*

(2) *When any such property as aforesaid—*

- (a) *has not been occupied or productive of rent for any period of not less than sixty consecutive days, or*
- (b) *consists of separate tenements one or more of which has or have not been occupied or productive of rent for any such period as aforesaid, or*
- (c) *is wholly or in greater part demolished or destroyed by fire or otherwise,*

*the committee may remit such portion (if any) of the tax or instalment as it may think equitable.*

(3) *The burden of proving the facts entitling any person to claim relief under this section shall lie upon him.*

(4) *For the purposes of this section neither the presence of a care-taker nor the mere retention in an otherwise unoccupied dwelling-house of the furniture habitually used in it shall constitute occupation of the house.*

(5) *For the purposes of this section a house shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not.*

63. (1) A tax payable under section 42, sub-section (1), division (A), clause (a), shall be paid by the owner of the property in respect of which it is payable.

(2) A tax payable under section 44 shall be paid by the occupier of the property in respect of which it is payable.

64. (1) When any sum is due on account of a tax payable under this Act in respect of any property by the owner thereof, the committee shall cause a bill for the amount, stating the property and the period for which the charge is made, to be delivered to the person liable to pay the same.

(2) If the bill be not paid within ten days from the delivery thereof, the committee may cause a notice of demand to be served on that person; and, if he do not, within seven days from the service of the notice, pay the sum due, with any fee leviable for the notice, or show sufficient cause for non-payment, the sum due, with the fee, shall be deemed to be an arrear of tax.

(3) The amount of every such arrear, besides being recoverable in any other manner provided by this Act, shall, subject to any claim on behalf of Her Majesty, be a first charge on the property in respect of which it is payable, and shall be recoverable, on application made in this behalf by the committee to the Collector, as if the property were an estate assessed to land-revenue and the arrear were an arrear of such revenue due thereon:

*Provided that nothing in this sub-section shall authorize the arrest of a defaulter.*

*Octroi and Tolls.*

65. Every person bringing or receiving with-  
in the octroi-limits of any municipality any article on which octroi is payable shall, when required by an officer authorized by the committee in this behalf, and so far as may be necessary for ascertaining the amount of tax chargeable,—

- (a) permit that officer to inspect, examine, weigh and otherwise deal with the article; and
- (b) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature which he may possess relating to the article.

66. If any person, bringing or receiving a conveyance or package within the octroi-limits of a municipality in which octroi is leviable, shall refuse on the demand of an officer authorized by the committee in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains any articles in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before any Magistrate or member of committee, who shall cause the inspection to be made in his presence.

67. Every officer demanding octroi by the authority of the committee shall tender to every person introducing or receiving any article on which the tax is claimed a bill specifying the article taxable, the amount claimed and the rate at which the tax is calculated.

68. (1) In case of non-payment of any octroi or of any toll on demand, the officer empowered to collect the same may seize any article on which the octroi is chargeable, or any vehicle or animal on which the toll is chargeable, or any part of its burden of sufficient value to satisfy the demand.

(2) The committee may cause any property so seized, or so much thereof as may be necessary, to be sold by auction to satisfy the demand, with the expenses occasioned by the seizure, custody and sale thereof, unless the demand and expenses are in the meantime paid, after the lapse of five days from the seizure, and after the issue of a proclamation fixing the time and place of sale:

*Provided that, by order of the president or a vice-president, articles of a perishable nature which could not be kept for five days without serious risk of damage may be sold after the lapse of such shorter time as he may, having regard to the nature of the articles, think proper.*

69. The collection of any octroi or toll may be leased by the committee, with the previous sanction of the Commissioner, for any period not exceeding one year; and the lessee and all persons employed by him in the management



*The Punjab Municipal Bill, 1891.**(Chapter III.—Taxation.—Section 70. Chapter IV.—Municipal Fund and Property.—Sections 71-74.)*

and collection of the octroi or toll shall in respect thereof—

- (a) be bound by any orders made by the committee for their guidance;
- (b) have such powers exercisable by officers of a committee under this Act as the committee may, from time to time, confer upon them; and
- (c) be entitled to the same remedies and be subject to the same responsibilities as if they were employed by the committee for the management and collection of the octroi or toll.

70. If goods passing the octroi-boundary of a municipality are liable to the payment of octroi, then every person who, with the intention to defraud the committee or its lessee for the collection of octroi, causes or abets the introduction of, or himself introduces or attempts to introduce, within the said octroi-boundary any such goods upon which payment of the octroi due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend either to ten times the value of such octroi or to fifty rupees, whichever may be greater.

## CHAPTER IV.

## MUNICIPAL FUND AND PROPERTY.

71. There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

- (a) all sums received by or on behalf of the committee under this Act or otherwise;
- (b) all fines realized in cases in which prosecutions for offences committed within the municipality are instituted under this Act or the rules or under section 34 of Act V of 1861 or under the Prevention of Cruelty to Animals Act, 1890; and
- (c) the balance (if any) standing at the credit of the municipal fund of the municipality at the commencement of this Act.

72. (1) The committee shall set apart and apply out of the municipal fund—

- (a) first, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it;
- (b) secondly, such sum as may be required to meet the charges of its own establishment, including such subscriptions and contributions as are referred to in sections 33 and 34, and such sum as may be required for the maintenance of a police-establishment under Chapter V;
- (c) thirdly, such sum as may be required to pay the expenses of pauper lunatics sent to public asylums from the municipality and as ought, in the opinion of the Local Government, to be paid by the committee, the expenses incurred in auditing the accounts of the committee, and such portion of the cost of any public expenditure by the Government of India or the Local Government as may be held by the Local Government to be equitably payable by the committee in return for services rendered to it.

(2) Subject to the charges specified in sub-section (1) and to such rules as the Local Government may make with respect to the priority to be given to the several duties of the committee, the municipal fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the following matters within the municipality, and with the sanction of the Commissioner outside the municipality, namely:—

- (a) the construction, maintenance, improvement, cleansing and repair of public streets, bridges, embankments, drains, latrines, tanks and water-courses;
- (b) the watering and lighting of such streets or any of them;
- (c) the construction, establishment and maintenance of schools, hospitals and dispensaries, and other institutions for the promotion of education or for the benefit of the public health, and of rest-houses, sarais, poor-houses, markets, encamping-grounds, pounds and other works of public utility, and the control and administration of public institutions of any of these descriptions;
- (d) grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper-asylums and other educational or charitable institutions;
- (e) the training of teachers and the establishment of scholarships;
- (f) the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity;
- (g) the supply, storage and preservation from pollution of water for the use of men or animals;
- (h) the planting and preservation of trees;
- (i) the taking of a census, the registration of births, marriages and deaths, public vaccination and any sanitary measure;
- (j) the holding of fairs and industrial exhibitions; and
- (k) all acts and things which are likely to promote the safety, health, welfare or convenience of the inhabitants, or expenditure whereon may be declared by the committee, with the sanction of the Local Government, to be an appropriate charge on the municipal fund.

73. With the sanction of the Local Government a salary of such amount as the Local Government may fix may be paid to the president of a committee, not being a salaried officer of Government, out of the municipal fund.

74. (1) In places where there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in such treasury, sub-treasury or bank.

(2) In places where there is no such treasury, sub-treasury or bank, the municipal fund may be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Commissioner may in each case think sufficient.

*The Punjab Municipal Bill, 1891.*

(Chapter IV.—Municipal Fund and Property.—Sections 75-78. Chapter V.—Municipal Police.—Sections 79-81.)

75. (1) A committee may, from time to time, with the previous sanction of the Commissioner, invest any portion of its municipal fund in securities of the Government of India or such other securities as the Governor General in Council may approve in this behalf, and vary such investments for others of a like nature.

(2) The income resulting from the securities and the proceeds of the sale of the same shall be credited to the municipal fund.

76. Subject to any special reservation which may be made by the Local Government, all property of the nature hereinafter in this section specified and situated within the municipality shall be vested in and belong to the committee, and shall, with all other property which may become vested in the committee, be under its direction, management and control, and shall be held and applied by it for the purposes of this Act, that is to say:—

- (a) all public town-walls, gates, markets, slaughter-houses, manure and night-soil depôts and public buildings of every description which have been constructed or are maintained out of the municipal fund;
- (b) all public streams, springs and works for the supply, storage and distribution of water for public purposes, and all bridges, buildings, engines, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well;
- (c) all public sewers and drains, and all sewers, drains, culverts and water-courses in, alongside or under any street, and all works, materials and things appertaining thereto;
- (d) all dust, dirt, dung, ashes, refuse, animal-matter or filth or rubbish of any kind, or dead bodies of animals, collected by the committee from the streets, houses, privies, sewers, cesspools or elsewhere or deposited in places fixed by the committee under section 97;
- (e) all public lamps lamp-posts and apparatus connected therewith or appertaining thereto;
- (f) all land or other property transferred to the committee by the Government or by gift, purchase or otherwise for local public purposes;
- (g) all streets, and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such streets.

77. (1) The management, control and administration of every public institution maintained out of the municipal fund shall vest in the committee:

Provided that the extent of the independent authority of the committee in respect of any such institution may be prescribed by the Local Government.

(2) When any public institution has been placed under the direction, management and control

of the committee, all property, endowments and funds belonging thereto shall be held by the committee in trust for the purposes to which such property, endowments and funds were lawfully applicable at the time when the institution was so placed.

78. The committee may, with the sanction of the Local Government, transfer to Her Majesty any property vesting in the committee under section 76 or section 77, but not so as to affect any trusts or public rights subject to which the property is held.

## CHAPTER V.

## MUNICIPAL POLICE.

79. (1) Every committee shall, unless relieved of this obligation by the Local Government, maintain a sufficient police-establishment for police requirements within municipal limits and for the performance of the duties imposed on it by this Act.

(2) The establishment maintained under subsection (1) shall consist either of a body of watchmen or of part of the general police-force under the Local Government within the meaning of section 2 of Act V of 1851, or partly of one and partly of the other, as the Local Government may determine; and shall consist of such number of officers and men, who shall respectively receive such pay, leave-allowances, gratuities and pensions as the committee may from time to time, after consultation with the District Magistrate and the Inspector General of Police, and subject to the final decision of the Local Government, direct.

80. (1) The Local Government may relieve any committee of the whole or part of the cost of the police-establishment, and may enter into a contract with the committee, on such terms as may be agreed on, that, in consideration of such relief, the committee shall pay periodically a sum not exceeding the amount thereof, or undertake any services within the municipality to which the municipal fund can properly be applied, and which are estimated to cost not more than the amount of the relief.

(2) When a committee has been relieved under this section of the whole or part of the cost of the police-establishment which it is required to maintain, the Local Government shall maintain such police-establishment as it shall consider necessary, and the establishment so maintained may consist either of a body of watchmen or of a part of the general police-force under the Local Government within the meaning of section 2 of Act V of 1861, or partly of one and partly of the other.

81. (1) If the establishment maintained under this Chapter consist wholly or in part of watchmen, they—

(a) shall be under the orders of the District Superintendent of Police, subject to the

*The Punjab Municipal Bill, 1891.**(Chapter V.—Municipal Police.—Sections 82-84. Chapter VI.—Powers for Sanitary and other Purposes.—Sections 85-91)*

general control of the District Magistrate ;

(b) shall be appointed and promoted, and shall be liable to dismissal, suspension, reduction or fine, under such rules as the Local Government may make in this behalf ;

(c) shall perform such duties as the Local Government may, subject to the provisions of this Act, direct ; and

(d) shall possess the same powers, be entitled to the same assistance, enjoy the same protection, be subject to the same responsibilities and be liable to the same penalties as if they were police-officers enrolled under Act V of 1861.

(2) Any person obstructing any such watchman in the discharge of his duties may be arrested without warrant by a police-officer or by any such watchman.

82. If the establishment maintained under this Chapter or any portion thereof consist of part of the general police-force, the Local Government may, notwithstanding anything contained in Act V of 1861 or in any other Act for the time being in force, define, subject to the provisions of this Act, the duties which the officers and men of the establishment or such portion thereof may or may not be required to perform.

83. (1) Every member of a police-establishment under this Act shall give immediate information to the committee of any offence committed against this Act or the rules or bye-laws, and shall be bound to assist all members, officers and servants of the committee in the exercise of their lawful authority.

(2) Every member of such police-establishment may arrest any person committing in his view any offence against this Act or the rules or bye-laws—

(a) if the name and address of the person are unknown to him, and

(b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(3) A person arrested under this section may be detained until his name and address have been correctly ascertained :

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate except under the order of a Magistrate for his detention.

84. When special police-protection is, in the opinion of the Local Government, requisite on the occasion of any fair, agricultural show or industrial exhibition managed by a committee, the Local Government may provide such protection, and the committee shall pay the whole charge thereof or such portion of such charge as the Local Government may consider equitably payable by it.

## CHAPTER VI.

## POWERS FOR SANITARY AND OTHER PURPOSES.

*Streets and Buildings.*

85. When any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on both sides of the street.

86. The committee may close temporarily any street vested in it or any part thereof for the purpose of repairs, or for the purpose of constructing or repairing any sewer, drain, culvert or bridge, or for any other public purpose ; and may divert, discontinue or close permanently any such street, and sell the land or such part thereof as may not be required for the purposes of this Act.

87. The committee may grant permission in writing for the temporary occupation of any street or land vested in it for the purpose of depositing any building-materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may charge fees for such permission, and may at its discretion withdraw the permission.

88. The committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

89. (1) The committee may cause a name to be given to any street, and to be affixed on any building in such place as it may think fit, and may also cause a number to be affixed to any building ; and in like manner may, from time to time, cause such names and numbers to be altered.

(2) Whoever shall destroy, pull down or deface any such name or number, or put up any different name or number from that put up by order of the committee, shall be punishable with fine which may extend to twenty rupees.

90. The committee may direct that, within certain limits, to be fixed by it, the roofs and external walls of huts or other buildings shall not be made or renewed of grass, mats, leaves or other highly inflammable materials without the permission of the committee in writing ; and the committee may, by written notice, require any person who has disobeyed any such direction to remove or alter the roofs or walls so made or renewed as it may think fit.

91. (1) Should any building or part of a building project beyond the regular line of a street, either existing or determined for the future, or beyond the front of

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the building on either side thereof, the committee may, whenever such building or part has been either entirely or in greater part taken down or burnt down, or has fallen down, by notice require such building or part, when being re-built, to be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street, by such setting back or removal shall become part of the street and shall vest in the committee:

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of his building or any part thereof being set back.

(2) The committee may, on such terms as it may think fit, allow any building to be set forward for the improvement of the line of the street.

92. (1) Every person who intends to erect or re-erect any building shall, if required to do so by any bye-law, give notice in writing in the manner hereinafter prescribed of his intention to the committee, and the committee may within six weeks after the receipt of such notice either refuse to sanction the said building, or may sanction the said building either absolutely or subject to any written directions which the committee may deem fit to issue in respect of all or any of the matters following, namely:—

- (a) free passage or way in front of the building;
- (b) space to be left about the building to secure free circulation of air and facilitate scavenging and for the prevention of fire;
- (c) ventilation, and the provision and position of drains, privies or cesspools;
- (d) level and width of foundation, level of lowest floor and stability of structure; and
- (e) the line of frontage with neighbouring buildings, if the building abuts on a street;

and the person erecting or re-erecting any such building as aforesaid shall obey all such written directions:

Provided that the committee shall make full compensation to the owner for any damage which he may sustain in consequence of the prohibition of the re-erection of any building, or of its requiring any land belonging to him to be added to the street.

(2) Any person giving notice to the committee under sub-section (1) shall, if required to do so by any bye-law, along with his notice forward a plan and specification of the building which he intends to erect or re-erect, together with a site-plan of the land of such character and with such details as the bye-law may require. No notice under sub-section (1) shall be valid until such plans and specification have been supplied.

(3) In any case to which sub-section (2) does not apply, the committee may within fifteen days from the receipt of any notice under sub-section (1) require a person who has given such notice to submit within one week of the receipt of the requisition a sufficient plan and specification of the building which he intends to erect or re-erect, together with a site-plan of the

land, with such reasonable details as the committee may prescribe in its requisition; and in such case the notice shall not be valid until such plans and specification have been supplied.

(4) Should any such building be begun or erected without giving notice, or without submitting such plans and specification as aforesaid or in contravention of any legal order of the committee issued within six weeks of receipt of a valid notice under sub-section (1), the committee may, by notice to be delivered within a reasonable time, require the building to be altered or demolished as it may deem necessary.

(5) Should the committee neglect or omit for six weeks after the receipt of a valid notice under sub-section (1) to make and deliver to the person who has given such notice any order in respect thereof, it shall be deemed to have sanctioned the proposed building absolutely.

(6) Every sanction for the erection or re-erection of any building which shall be given, or deemed to have been given, by a committee shall be available for one year from the date on which the notice shall have become valid and complete, and no longer, and should the building so sanctioned not have been begun by the person who has obtained such sanction or some one lawfully claiming under him within such year, it shall not be begun without fresh sanction; but such person as aforesaid may at any subsequent time give fresh notice to the committee in the manner hereinbefore prescribed, and thereupon the provisions hereinbefore contained shall apply to such notice.

93. (1) The committee may by bye-laws regulate in respect of the erection or re-erection of any building within the municipality—

- (a) the materials and method of construction to be used for external and party walls, roofs, floors, fire-places and chimneys;
- (b) the position of fire-places, chimneys, drains, privies and cesspools;
- (c) the height and slope of the roof above the uppermost floor upon which human beings are to live, or cooking operations are to be carried on;
- (d) the number and height of the storeys of which the building may consist; and
- (e) the means to be provided for egress from the building in case of fire;

Provided that the committee may by resolution dispense with the observance of any or all of the bye-laws made under this section in regard to the erection or re-erection of any building specified in the resolution.

(2) If in and during the erection or re-erection of any building any bye-law under this section is contravened, the committee may by notice, to be delivered, within a reasonable time, require the building to be altered or demolished within the space of thirty days, as it may deem necessary:

Provided that no such notice shall issue in respect of the contravention of any bye-law of which the observance has been dispensed with under the proviso to sub-section (1).



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(3) This section shall not take effect in any municipality until it has been specially extended thereto by the Local Government at the request of the committee.

*Definition of expression "erect or re-erect any building."* 94. The expression "erect or re-erect any building" includes—

- (a) any material alteration or enlargement of any building,
- (b) the conversion into a place for human habitation of any building not originally constructed for human habitation,
- (c) the conversion into more than one place for human habitation of a building originally constructed as one such place,
- (d) the conversion of two or more places of human habitation into a greater number of such places,
- (e) such alterations of the internal arrangements of a building as effect an alteration of its drainage or sanitary arrangements, or affect its security, and
- (f) the addition of any rooms, buildings, out-houses or other structures to any building.

95. (1) It shall not be lawful, without the written permission of the committee, for the owner or occupier of any building to add to, or place against or in front of, the building any projection or structure overhanging, projecting into or encroaching on any street or into or on any drain, sewer or aqueduct therein.

(2) The committee may, by notice, require the owner or occupier of any building to remove or alter any such projection or encroachment as aforesaid.

Provided that, in the case of any projection or encroachment lawfully in existence at the commencement of this Act, the committee shall make reasonable compensation for any damage caused by the removal or alteration.

(3) The committee may by resolution give permission to the owners or occupiers of buildings in any particular street to put up open verandahs, balconies or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement-wall, and at a height from the level of the ground or street, to be specified in the resolution.

*Bathing and Washing Places.*

96. The committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants; and may, by public notice, prohibit bathing, or washing animals or clothes, in any public place not so set apart, or at times or by persons other than those specified, and any other act by which water in public places may be rendered foul or unfit for use.

*Deposit of Offensive Matter and Slaughter-places.*

97. The committee may fix places within or, with the approval of the District Magistrate, beyond the limits of the municipality for the deposit of refuse, rubbish or offensive matter of any kind or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed along any street and deposited at such places.

98. (1) The committee may, with the approval of the District Magistrate, fix premises either within or without the limits of the municipality for the slaughter of animals for sale, or of any specified description of such animals, and may with the like approval grant and withdraw licenses for the use of such premises, or, if they belong to the committee, charge rent or fees for the use of the same.

(2) When such premises have been fixed by the committee beyond municipal limits, it shall have the same power to make rules for the inspection and proper regulation of the same as if they were within those limits.

(3) When any such premises have been fixed, no person shall slaughter any such animal for sale within the municipality at any other place.

(4) Should any one slaughter for sale any such animal at any other place within the municipality, he shall be punishable with fine which may extend to twenty rupees.

99. (1) The committee may by bye-law fix premises within the municipality in which the slaughter of animals of any particular kind not for sale shall be permitted, and prohibit, except in case of necessity, such slaughter elsewhere within the municipality.

Provided that no such bye-law shall apply to animals slaughtered for any religious purpose.

(2) This section shall not take effect in any municipality until it has been specially extended thereto by the Local Government at the request of the committee.

100. (1) Whenever any animal in the charge of any person dies otherwise than by slaughter either for sale or for some religious purpose, the person in charge thereof shall within twenty-four hours either—

(a) convey the carcase to a place (if any) fixed by the committee under section 97 for the disposal of the dead bodies of animals, or

(b) give notice of the death to the committee, whereupon the committee shall cause the carcase to be disposed of.

(2) Every person bound to act in accordance with sub-section (1) shall, if he fail so to act, be punishable with fine which may extend to ten rupees.

(3) In respect of the disposal of the dead body of an animal under clause (b) of sub-section (1), the committee may charge such fee as the committee, with the sanction of the Commissioner, may, by bye-law, have prescribed.

(4) For the purposes of this section the word "animal" shall be deemed to mean all horned cattle, elephants, camels, horses, ponies, asses, mules, deer, sheep, goats, swine and other large animals.

*The Punjab Municipal Bill, 1891.**(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 101-110.)**Burial and Burning Places.*

**101.** (1) The committee may, by public notice, order any burial or burning ground which is, in its opinion, dangerous to the health of persons living in the neighbourhood to be closed from a date to be specified in the notice, and shall, in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(2) Private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the committee may impose in this behalf:

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owners thereof.

(3) No burial or burning ground, whether public or private, shall be made or formed, after the commencement of this Act, without the permission in writing of the committee.

(4) Should any person bury or burn, or cause or permit to be buried or burnt, any corpse in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, he shall be punishable with fine which may extend to fifty rupees.

**102.** The committee may, by public notice, prescribe routes for the removal of corpses to burial or burning places.

*Inflammable Materials.*

**103.** The committee may, where it appears to it to be necessary for the prevention of danger to life or property, by public notice, prohibit all persons from stacking or collecting wood, dry grass, straw or other inflammable materials, or placing mats or thatched huts or lighting fires in any place or within any limits specified in the notice.

**104.** In any municipality to which section 93 has been specially extended by the Local Government, the committee may by bye-law prohibit the lighting of fires in the top storey of any building which by reason of its contiguity to other buildings might be a source of danger to the latter in the event of a fire breaking out within it, and the walls of which storey do not exceed seven feet in height, or the placing of stands for lamps and candles in any position which the committee may deem to be dangerous to the public safety.

**105.** The committee may by bye-law prohibit the storage of more than a fixed maximum quantity of any explosive, petroleum, spirit, naphtha or other inflammable material in any building not registered or licensed under section 135.

*Powers of Entry and Inspection.*

**106.** (1) The committee, by any person authorized by it in this behalf, may, between sunrise and sunset, enter into any building or upon any land, and

inspect any drains, privies or cesspools therein or thereon, and may cause the ground to be opened where such person as aforesaid may think fit for the purpose of preventing or removing any nuisance arising from the drains, privies or cesspools.

(2) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building; but if it be found that no nuisance exists, or but for such opening would have arisen, the ground or portion of any building, drain or other work, if any, opened, injured or removed for the purpose of such inspection shall be filled in, reinstated and made good by the committee.

(3) No building other than a latrine shall be entered under this section until six hours' notice in writing has been given to the occupier of the building by the committee or by the person authorised by the committee to make the entry.

**107.** (1) The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier, or, if there be no occupier to the owner, of any building, at any time between sunrise and sunset enter and inspect the building, and may by notice direct all or any part thereof to be forthwith internally or externally lime-washed, disinfected or otherwise cleansed for sanitary reasons.

(2) If the building to be inspected is a stable for horses or a house or shed for cows or other cattle, previous notice shall not be requisite before inspection.

**108.** The committee, by any person authorised by it in this behalf, after giving twenty-four hours' notice to the occupier, or, if there be no occupier, to the owner, of any building or land, may at any time between sunrise and sunset—

- enter on and survey and take levels of any land;
- enter, inspect and measure any building for the purpose of valuation;
- enter into any building or on any land for the purpose of examining works under construction, of ascertaining the course of sewers or drains or of executing or repairing any work which it is by this Act empowered to execute or maintain.

**109.** The committee, by any person authorised by it in this behalf, may, at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any vehicle or animal liable to taxation under this Act for which a license has not been duly taken out.

**110.** The committee, by any person authorised by it in this behalf, may at all reasonable times enter into and inspect any market, building, shop, stall or place used for the sale of

*The Punjab Municipal Bill, 1891.**(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 111-120.)*

food or drink for man, or as a slaughter-house, or for the sale of drugs, and inspect and examine any food or drink, animal or drug which may be therein; and, if any article of food or drink or any animal therein appears to be intended for the consumption of man and to be unfit therefor, may seize and remove the same, or may cause it to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such consumption:

and, in case it is reasonably suspected that any drug is adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, may remove the same, giving a receipt therefor, and may cause the owner thereof to be brought before a Magistrate for enquiry whether any offence has been committed in respect thereof, and for orders as to the disposal of the said drug.

*House-scavenging.*

**111.** The removal of filth, rubbish, ordure or other offensive matter from a privy, cesspool or other common receptacle for such matter in or pertaining to a house or building is called house-scavenging.

**112.** (1) Subject to the provisions hereinafter contained with respect to the customary rights of sweepers, the committee may at any time undertake the house-scavenging of any house or building on the application or with the consent of the occupier.

(2) The committee may, by public notice, undertake the house-scavenging of any houses or buildings in the municipality from any date not less than two months after issue of the notice.

(3) The occupier of any house or building affected by the notice may at any time after the issue thereof apply to the committee to exclude that house or building from the notice.

(4) The committee shall consider and pass orders upon every such application within six weeks of the receipt thereof, and may by any such order exclude such house or building from the notice.

(5) In deciding whether to exclude any house or building from the notice, the committee shall consider, among other matters, the efficiency of the arrangements for house-scavenging made by the occupier (if any) and the purpose to which he applies the matter dealt with in house-scavenging.

**113.** Notwithstanding anything in the last foregoing section, the committee shall not, except in accordance with the provisions of this Chapter,—

(a) undertake the house-scavenging of any house or building in respect whereof any sweeper has a customary right to do such house-scavenging;

(b) without the consent of the occupier, undertake the house-scavenging of any house or building occupied by an agriculturist who himself cultivates land within municipal limits or in a village contiguous therewith.

**114.** When once the committee has undertaken the house-scavenging of any house or building under this Chapter, it may continue to perform such house-scavenging with or without the consent of the occupier for the time being of such house or building.

**115.** When the committee has undertaken the house-scavenging of any house or building, it shall be bound to perform the same properly until it shall have relieved itself of the obligation by an order under section 112, sub-section (4).

**116.** The servants of the committee employed in house-scavenging may at all reasonable times do all things necessary for the proper performance of any house-scavenging undertaken by the committee.

**117.** All matter removed by the servants of the committee in the course of house-scavenging shall belong to the committee.

**118.** (1) Should a sweeper who has a customary right to do the house scavenging of a house or building (hereinafter called the customary sweeper) fail to perform such house-scavenging in a proper way and at reasonable intervals, the occupier of the house or building or the committee may complain to a Magistrate.

(2) The Magistrate receiving such complaint shall hold an enquiry, and, should it appear to him that the customary sweeper has failed to perform the house-scavenging of the house or building in a proper way or at reasonable intervals, he may impose upon such sweeper a fine which may extend to ten rupees, and, upon a second or any later conviction in regard to the same house or building, may also direct the right of the customary sweeper to do the house-scavenging of the house or building to be forfeited, and thereupon such right shall be forfeited accordingly.

**119.** (1) Should an agriculturist who himself cultivates land within municipal limits or in a village contiguous therewith fail to provide for the proper house-scavenging of any house or building occupied by him, the committee may complain to a Magistrate.

(2) The Magistrate receiving the complaint shall hold an enquiry, and, should it appear to him that the agriculturist has not provided for the proper house-scavenging of the house or building, he may pass an order empowering the committee to undertake the same, and thereupon the committee shall be entitled to undertake such house-scavenging.

*Search for inflammable or explosive material in excess of authorised quantity.*

**120.** (1) The committee may at any reasonable time, by any person authorised by it in writing in this behalf, enter upon and inspect any house or building which is suspected to contain petroleum, explosive or other inflammable material,

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*(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 121-128.)*

*in excess of the quantity permitted to be kept in such house or building under the provisions of this Act or of any rule, bye-law or public notice made or published thereunder.*

(2) *Should any such excess quantity of such material be discovered it may be seized and held subject to such order as a Magistrate may pass with respect to it.*

(3) *If the Magistrate decide that the material seized was stored in the house or building contrary to the provisions of this Act, or of any rule, bye-law or public notice made or published thereunder, he shall pass an order confiscating the same.*

(4) *Subject to any general rules for the time being applicable thereto, the material so confiscated may be sold by order of the Magistrate, and the proceeds, after defraying the expenses of such sale, shall be credited to the municipal fund.*

(5) *No order of confiscation under this section shall operate to prevent any other criminal or civil proceedings to which the person storing the material in excessive quantity may be liable.*

*Water-pipes, Privies and Drains.*

**121.** The committee may, by notice, require the owner of any building or land in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the building or land and for discharging the same so as not to inconvenience persons passing along the street.

**122 (1)** The committee may, by notice, require the owner of any building or land to remove or provide any drain, privy, cesspool or other receptacle for filth, or provide any additional drains, privies, cesspools or other receptacles as aforesaid which should in its opinion be provided for the building or land, in such manner as the committee may direct, or to make to the reasonable satisfaction of the committee and maintain in good order a drainage connection with any public sewer or drain not situated more than one hundred feet from such building or land as aforesaid:

*Provided that the said owner shall not be liable for any default in making or maintaining such drainage connection if the land through which the said drainage connection is required to pass does not belong to him, and he can prove that the default is caused by the act of the owner or occupier of such last-mentioned land.*

(2) The committee may, by notice, require any person employing more than twenty workmen or labourers to provide such latrines and urinals as it may think fit, and to cause the same to be kept in proper order and to be daily cleaned.

(3) The committee may, by notice, require the owner or occupier of any building or land to have any privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the committee may direct, any door or trapdoor of a privy opening on to any street or drain.

**123. (1)** The committee may, by notice, require the owner or occupier of any building or land to repair and closing of drains, privies and cesspools. land to repair, alter or put in good order any drain, privy or cesspool, or to close any drain, privy or cesspool belonging thereto.

(2) The committee may, by notice, require any person who may construct any new drain, privy or cesspool without its permission in writing or contrary to its directions or regulations or to the provisions of this Act, or who may construct, rebuild or open any drain, privy or cesspool which it has ordered to be demolished or stopped up or not to be made, to demolish the drain, privy or cesspool, or to make such alteration therein as it may think fit.

**124.** The committee may, by notice, require any person who without its permission in writing may newly erect or rebuild any building over any sewer, drain, culvert, water-course or water-pipe vested in the committee to pull down or otherwise deal with the same as it may think fit.

**125.** The committee may, by notice, require any owner or occupier on whose land any drain, latrine, urinal, cesspool or other receptacle for filth or refuse for the time being exists within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, to remove or close the same within one week from the service of such notice.

**126.** The committee may, by notice, require the owner or occupier of any land or building to cleanse, repair, cover, fill up or drain off any private well, tank, reservoir, pool, depression or excavation therein which may appear to the committee to be injurious to health or offensive to the neighbourhood:

*Provided that, if for the purpose of effecting any drainage under this section it should be necessary to acquire any land not belonging to the same owner or to pay compensation to any person, the committee shall provide such land or pay such compensation.*

*Dangerous Buildings and Places.*

**127.** Should any building, or any well, tank, reservoir, pool, depression or excavation be, for want of sufficient repair, protection or enclosure, dangerous to persons passing by or dwelling or working in the neighbourhood, the committee may, by notice, require the owner or occupier thereof to repair, protect or enclose the same; and, should it appear to it to be necessary in order to prevent imminent danger, it shall forthwith take such steps to avert the danger as may be necessary.

**128.** Should any building, wall or structure or anything affixed thereto, or any bank or tree, be deemed by the committee to be in a ruinous state or in any way dangerous, it may, by notice, require the owner or occupier thereof forthwith

*The Punjab Municipal Bill, 1891.**(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 129-136.)*

either to remove the same or to cause such repairs to be made to the building, wall, structure or bank as the committee may consider necessary for the public safety; and, should it appear to it to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps to avert the danger as may be necessary.

*Buildings and Grounds in Unsanitary Condition.*

**129.** The committee may, by notice, require the owner or occupier of any land to clear away and remove any thick vegetation or undergrowth which may appear to the committee to be injurious to health or offensive to the neighbourhood.

**130.** The committee may, by notice, require the owner or occupier of any land to cut or trim within three days the hedges growing thereon and bordering on any street, or any branches of trees growing thereon which overhang any street and obstruct the same or cause danger thereto, or which so overhang any well, tank or other source from which water is derived for public use as to be likely to pollute the water thereof.

**131.** Should the owner or occupier of any building or land suffer the same to be in a filthy or unwholesome state, the committee may, by notice, require him within twenty-four hours to cleanse the same or otherwise put it in a proper state.

**132.** Should any building, or any part of any building, appear to the committee to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or other sufficient reason, the committee may, by notice, prohibit the owner or occupier thereof from using the same for human habitation, or suffering it to be so used, until it has been rendered fit for such use to the reasonable satisfaction of the committee.

**133.** The committee may, by notice, require the owner or part-owner, or person claiming to be the owner or part-owner, of any building or land which, by reason of abandonment or disputed ownership or other cause, has remained untenanted and become a resort of idle and disorderly persons or otherwise a nuisance to secure or enclose the same within a reasonable time fixed in the notice.

**134.** (1) The Local Government may, on the report of the Sanitary Commissioner or of the Civil Surgeon that the cultivation of any description of crop or the use of any kind of manure or the irrigation of land in any specified manner in any place within the limits of any municipality is injurious to the health of persons dwelling in the neighbourhood, by notification prohibit the cultivation of such crop, the use of such manure or the use of the method of irrigation so

reported to be injurious, or impose such conditions with respect thereto as may prevent the injury:

Provided that, when on any land to which such notification applies the act prohibited has been practised during the five years next preceding the notification in the ordinary course of husbandry, compensation shall be paid from the municipal fund to all persons interested therein for any damage caused to them by the effect of such notification.

(2) Should any person disobey any notification issued under sub-section (1), he shall be punishable with fine which may extend to fifty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

*Offensive and Dangerous Trades.*

**135.** (1) The owner or occupier of every place within the municipality used for any of the following purposes, namely:—

Regulation of offensive and dangerous trades.

- melting tallow;
- boiling bones, offal or blood;
- as a soap-house, oil-boiling house, dyeing-house or tannery;
- as a brickkiln, pottery or limekiln;
- as any other manufactory or place of business from which offensive or unwholesome smells arise;
- as a yard or depôt for trade in hay, straw, thatching-grass, wood or coal, or other dangerously inflammable material;
- as a store-house for any explosive, or for petroleum or any inflammable oil or spirit,

shall register the same in a book to be kept by the committee for the purpose.

(2) No place shall be newly used for any of the said purposes except under a license from the committee, which shall be renewable annually.

(3) The license shall not be withheld unless the committee consider that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in, or frequenting, the immediate neighbourhood.

(4) The committee may charge fees according to a scale to be approved by the Commissioner for such licenses, and may impose such conditions in respect thereof as it may think necessary.

(5) Whoever, without such registration and without a license, uses any such place for any such purpose as aforesaid shall be punishable with fine which may extend to fifty rupees, and with a further fine not exceeding ten rupees for every day during which the offence is continued after he has been convicted of such offence.

(6) The owner or occupier of any place registered under sub-section (1) may apply to have that place licensed under this section. When any such place has been licensed, the registration of that place shall thereby be cancelled, and shall not be renewed.

**136.** (1) Whenever it is shown to the satisfaction of the committee that any place registered or licensed under the last pre-

Power to prohibit such trades.



*The Punjab Municipal Bill, 1891.**(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 137-143.)*

coding section is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, the committee may, by notice, require the occupier thereof to discontinue the use of such place, or to use it in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous.

(2) Whoever, after any such notice has been given, uses such place, or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous, shall be punishable with fine which may extend to two hundred rupees, and with a further fine not exceeding forty rupees for every day during which the offence is continued after he has been convicted of such offence.

*Regulation of manufacture, preparation and sale of food and drink.*

*Power for committee to regulate manufacture, preparation and sale of food and drink.* 137. (1) The committee may by bye-law—

- (a) prohibit the manufacture or preparation for sale of any specified articles of food or drink in any premises not licensed by the committee;
- (b) regulate the grant and withdrawal of licenses to premises for the manufacture or preparation for sale of such specified articles of food or drink;
- (c) regulate the hours and manner of transport within the municipality of any specified articles of food or drink;
- (d) fix the places in which any specified article of food or drink may be sold or exposed for sale or the places in which it may not be sold or exposed for sale:

Provided that no person shall be punishable for breach of any bye-law made under clause (a) or clause (d) of this sub-section by reason of the continuance of such manufacture, preparation or exposure for sale, or sale upon any premises which are at the time of the making of such bye-law used for such purpose until he has received from the committee six months' notice in writing to discontinue such manufacture, preparation or exposure for sale, or such sale, in such premises.

(2) This section shall not take effect in any municipality until it has been specially extended thereto by the Local Government at the request of the committee

*Dangerous Animals.*

138. (1) A committee, by any person authorised by it in this behalf,

*Destruction of mad dogs.* may destroy or cause to be destroyed, or confine or cause to be confined for such period as the committee may direct, any dog suffering from rabies or reasonably suspected to be suffering from rabies.

(2) No damages shall be payable in respect of any dog destroyed under this section.

*Restraint of Infection.*

*Information to be given of cholera or small-pox.* 139. Whoever—

- (a) being a medical practitioner or a person openly and constantly practising the medical profession, and in the course of such practice becoming cognizant of the

existence of cholera or small-pox in any dwelling other than a public hospital, or, in default of such medical practitioner or person practising the medical profession,

- (b) being the owner or occupier of such dwelling, and being cognizant of the existence of cholera or small-pox therein, or, in default of such owner or occupier,
- (c) being the person in charge of or in attendance on any person suffering from cholera or small-pox in such dwelling, and being cognizant of the existence of the disease therein,

fails to give information, or gives false information to the committee respecting the existence of such disease, shall be punishable with fine which may extend to fifty rupees:

Provided that a person not required to give information in the first instance, but only in default of some other person, shall not be punishable if it be shown that he had reasonable cause to suppose that the information had been or would be duly given.

*Removal to hospital of cholera and small-pox patients.* 140. When any person suffering from cholera or small-pox is—

- (a) without proper lodging or accommodation, or
- (b) living in a sarai or other public hostel, or
- (c) living in a room or house which he neither owns nor pays rent for, or
- (d) lodged in premises occupied by members of two or more families, and any of such occupiers objects to his continuing to lodge in such premises,

the committee, by any person authorised by it in this behalf, may, on the advice of any medical officer of rank not inferior to that of an Assistant Surgeon, remove the patient to any hospital or place at which persons suffering from such disease are received for medical treatment, and may do anything necessary for such removal.

141. Should the committee consider that the prohibition by committee of use of unwholesome water in any well, tank or other place is likely, if used for drinking, to engender or cause the spread of any dangerous disease, it may by public notice prohibit the removal or use of such water for drinking.

142. Neither of the last two foregoing sections shall take effect in any municipality until it has been specially extended thereto by the Local Government at the request of the committee.

*Power to make Bye-laws.*

*Power to make bye-laws.* 143. (1) Any committee may by bye-law—

- (a) render licenses necessary for the proprietors or drivers of vehicles, boats or animals kept or plying for hire within the limits of the municipality, and fix the fees payable for such licenses and the conditions on which they are to be granted and may be revoked;

*The Punjab Municipal Bill, 1891.**(Chapter VI.—Powers for Sanitary and other Purposes.—Section 144.)*

- (b) limit the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads, and the loads to be carried by such conveyances, animals or persons when hired within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;
- (c) provide for the proper registration of births, marriages and deaths, and for the taking of a census;
- (d) fix, and from time to time vary, the number of persons who may occupy a building or part of a building which is let in lodgings or occupied by members of more than one family; and provide—
- (i) for the registration and inspection of such buildings;
  - (ii) for promoting cleanness and ventilation in such buildings;
  - (iii) for the notices to be given and the precautions to be taken in the case of any infectious disease breaking out in such buildings; and
  - (iv) generally for the proper regulation of such buildings;
- (e) provide—
- (i) for the inspection and proper regulation of encamping-grounds, pounds, sarais, markets, *dhobis' ghāts*, flour-mills and slaughter-houses;
  - (ii) for the holding of fairs and industrial exhibitions within the municipality or under the control of the committee, and for fixing fees to be levied thereat;
  - (iii) for controlling and regulating the use and management of burial and burning grounds;
  - (iv) for the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use;
- (f) where the collection of an octroi has been sanctioned, fix octroi-limits for the purpose of collecting the same;
- (g) regulate the exhibition of tables of octroi, the system under which refunds are to be made on account thereof when the animals or goods on which the octroi has been paid are again exported, and the custody or storage of animals or goods declared not to be intended for use or consumption within the municipality into which they are brought;
- (h) require and regulate—
- (i) the exhibition of tables showing the rates of tolls chargeable on vehicles and animals entering the municipality;
  - (ii) the appointment by owners of buildings or lands in the municipality, who are not resident in the municipality, of persons residing within or near the municipality to act as their agents for

all or any of the purposes of this Act or any rule thereunder;

- (j) regulate the assessment and collection of any tax imposed under this Act and the fees payable in respect of notices of demand;
- (k) in any municipality where a reasonable number of slaughter-houses has been provided or licensed by the committee, control and regulate the admission within the municipal limits for the purpose of sale of the flesh (other than cured or preserved meat) of any cattle, sheep, goat or swine slaughtered at any slaughter-house or place not maintained or licensed under this Act; and
- (l) generally provide for carrying out the purposes of this Act;

Provided that no bye-law made under clause (a) or clause (b) by the committee of a municipality in which the Hackney Carriage Act, 1879, is in force shall apply to any vehicle to which that Act applies.

(2) Bye-laws under clause (g) may, among other matters, provide a period of limitation after which no claim for refund of octroi shall be entertained, and also that no such refund shall be made when the amount thereof would be less than one rupee.

(3) When a cantonment authority, with the sanction of the Governor General in Council, has agreed with the committee of an adjoining municipality that the same octroi-limits shall be established for the cantonment and the municipality, and that octroi-collections and charges shall be divided between the cantonment fund and the municipal fund, the committee may fix limits under clause (f) of sub-section (1) so as to include so much both of the cantonment and of the municipal area as it may deem necessary, and shall have the same powers of collecting octroi on animals or goods brought within such limits, and the provisions of this Act relating to octroi shall apply in the same way as if the said limits were wholly comprised in the area of the municipality.

144. The committee of a municipality wholly or in part situated in a hilly tract may further make bye-laws—

- (a) for regulating or prohibiting the cutting or destroying of trees or shrubs, or the making of excavations or removal of soil or quarrying, where such regulation or prohibition appears to the committee to be necessary for the maintenance of a water-supply, the preservation of the soil, the prevention of land-slips or of the formation of ravines or torrents, or the protection of land against erosion or the deposit thereon of sand, gravel or stones;
- (b) for the regulation or prohibition of any description of traffic in the streets where such regulation or prohibition appears to the committee to be necessary for the prevention of danger or grave inconvenience to the public;
- (c) for rendering licenses necessary for using premises within bazars as stables or

*The Punjab Municipal Bill, 1891.**(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 145-150.)*

(d) for rendering licenses necessary within the municipality—

- (i) for persons working as job porters for the conveyance of goods,
- (ii) for animals or carriages let out on hire for a day or part thereof, and
- (iii) for persons impelling or carrying such carriages;

(e) for fixing the fees payable for such licenses as are referred to in this section, and the conditions on which such licenses are to be granted and may be revoked; and

(f) for regulating the charges to be made for the services of such job porters as aforesaid, and for the hire of such animals or carriages, and for the remuneration of persons who impel or carry such carriages.

**145.** (1) In making any bye-law under any section of this Chapter, the committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues.

(2) In lieu of or in addition to such fine, the Magistrate may require the offender to remedy the mischief so far as within his power.

**146.** (1) No bye-law made under any section of this Chapter shall come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may prescribe in this behalf.

(2) The Local Government may cancel its confirmation of any such bye-law, and thereupon the bye-law shall cease to have effect.

*Supplemental.*

**147.** (1) When any notice under this Chapter requires any act to be done for which no time is fixed by this Act, it shall fix a reasonable time for doing the same.

(2) Whenever it is provided by this Act that any such notice may be given to the owner or occupier of any land or building, and the owner and occupier are different persons, such notice shall be given to the one of them primarily liable to comply with such notice, and in case of doubt to both of them:

Provided that in any such case where there is no owner resident within the municipality, the delivery of such notice to the occupier shall be sufficient.

(3) Whenever the terms of any such notice have not been complied with, the committee may, after six hours' notice, by its officers cause the act to be done.

**148.** (1) Where, under this Act, the owner or occupier of property is required by the committee to execute any work and default has been made in complying with the requirement, and the committee has executed the work, the committee may recover the cost of the work from the person in default.

(2) As between themselves and the committee both owner and occupier shall be deemed to be in default for the purposes of this section, but that one of them shall be deemed to be primarily in default upon whom as between landlord and tenant the duty of doing the required act would properly fall either in pursuance of the contract of tenancy or by law.

(3) When the person primarily in default is the owner, and the committee has recovered the whole or any part of the cost from the occupier, or he has paid the same upon its demand, he may deduct the sum so recovered or paid from the rent from time to time becoming due from him to the owner, or otherwise recover it from such owner:

(4) Provided that no occupier shall be required to pay under sub-section (3) any sum greater than the amount for the time being due from him to the owner, either in respect of rent due at the date of such demand as aforesaid or thereafter accruing, unless he has refused on application to him by the committee truly to disclose the amount of his rent and the name and address of the person to whom it is payable; but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(5) All in money recoverable by a committee under this section may be recovered either by suit or on application to a Magistrate having jurisdiction within the municipality by distress and sale of the moveable property of the person from whom the money is recoverable, and if payable by the owner of the property shall, until it is paid, be a charge on the property.

(6) Nothing in this section shall affect any contract between an owner and an occupier.

**149.** (1) The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the committee, its officers and servants under this Act, and shall make such compensation where the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(2) Should any dispute arise touching the amount of any compensation which the committee is required by this Act to pay for injury to any building or land, it shall be settled in such manner as the parties may agree, or, in default of agreement, in the manner provided by the Land Acquisition Act, 1870, with reference to the acquisition of and payment of compensation for land for public purposes so far as it can be made applicable.

**150.** (1) Any person aggrieved—  
Appeals from orders of committee.

(a) by the prohibition by a committee under section 92 of the erection or re-erection of a building, or

(b) by a notice from a committee under sub-section (4) of section 92 or sub-section (2) of section 93 requiring the alteration or demolition of a building, or

(c) by any order made by a committee under the powers conferred upon it by section 101, 132 or 136,

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(Chapter VI.—Powers for Sanitary and other Purposes.—Section 151. Chapter VII.—Offences affecting the Public Health, Safety or Convenience.—Sections 152-161.)

may appeal within thirty days from the date of such prohibition, notice or order to such officer as the Local Government may appoint for the purpose of hearing such appeals or any of them, or, failing such appointment, to the Commissioner in the case of a committee of a first class municipality, or to the Deputy Commissioner in the case of a committee of a second class municipality; and no such prohibition, notice or order shall be liable to be called in question otherwise than by such appeal:

Provided that if in the latter case the Deputy Commissioner or such other officer as aforesaid be himself a member of the committee, the appeal shall lie to the Commissioner.

(2) The appellate authority may, if it shall think fit, extend the period allowed by subsection (1) for appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the prohibition, notice or order appealed from shall be final:

Provided that the prohibition, notice or order shall not be modified or set aside until the appellant and the committee have had reasonable opportunity of being heard.

151. Every order of forfeiture under section 118 and every order under section 119 or section 120 shall be subject to appeal to the next superior Court, but shall not be otherwise open to appeal or revision.

## CHAPTER VII.

## OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY OR CONVENIENCE.

152. Whoever, without the permission of the committee or in disregard of its orders, throws or deposits, or permits his servants or members of his household under his control to throw or deposit, earth or materials of any description, or refuse, rubbish or offensive matter of any kind, upon any street or place, or into any public sewer or drain or any drain communicating therewith, shall be punishable with fine which may extend to twenty rupees.

153. Whoever, without the permission of the committee, causes or knowingly or negligently allows the water of any sink, sewer or cesspool, or any other offensive matter, to flow, drain or be put upon any street or place, or into any sewer or drain not set apart for the purpose, shall be punishable with fine which may extend to twenty rupees.

154. Whoever, being the owner or occupier of any building or land, keeps or knowingly or negligently allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, filth or any noxious or offensive matter in or upon such building or land, or suffers any such receptacle to be in a filthy or noxious state, or neglects to employ

proper means to cleanse and purify the same, shall be punishable with fine which may extend to fifty rupees.

155. Whoever, without the permission of the committee, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the sewers or drains vested in the committee shall be punishable with fine which may extend to fifty rupees.

156. Whoever, without the permission of the committee, makes or keeps for a longer time than one week after notice under section 125 any drain, latrine, urinal, cesspool or other receptacle for filth or refuse within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use shall be punishable with fine which may extend to twenty rupees, and, when a notice has issued, with a further fine not exceeding five rupees for each day during which the offence is continued after the lapse of the period allowed for removal.

157. Whoever keeps any swine in disregard of any orders which the committee may give to prevent them from becoming a nuisance, or keeps any other animal so as to be injurious to the health of the inhabitants or of animals or so as to become a nuisance, shall be punishable with fine which may extend to twenty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

158. Whoever feeds or allows to be fed any animal which is kept for dairy purposes or may be used for food on deleterious substances, filth or refuse of any kind shall be punishable with fine which may extend to fifty rupees.

159. Whoever drives any vehicle after dark in any street at more than a walking pace, unless the vehicle is properly supplied with lights or there is sufficient moonlight to render lights unnecessary, shall be punishable with fine which may extend to twenty rupees.

160. Whoever discharges fire-arms or lets off fire-works or fire-balloons, or engages in any game, in such a manner as to cause or be likely to cause danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punishable with fine which may extend to twenty rupees.

161. Whoever, being in charge of any elephant, camel or bear, omits on being requested to do so to remove as far as may be practicable his elephant, camel or bear to a safe distance on the approach of a horse, whether ridden or driven, shall be punishable with fine which may extend to twenty rupees.

*The Punjab Municipal Bill, 1891.*

(Chapter VII.—Offences affecting the Public Health, Safety or Convenience.—  
Sections 162-171. Chapter VIII.—Extinction and Prevention of Fire.—  
Sections 172-173.)

162. Whoever, contrary to any orders of the committee, takes an elephant along a street shall be punishable with fine which may extend to twenty rupees.

163. Whoever, being the owner or person in charge of any dog which is likely to annoy or intimidate passengers, neglects to restrain it so that it shall not be at large without a muzzle in any street shall be punishable with fine which may extend to twenty rupees.

164. Whoever, without the permission of the committee, alters, obstructs or encroaches upon any street, sewer, drain or water-course, or displaces, takes up or alters the pavement or other materials or the fences or posts of any street, or deposits building-materials or makes any hole or excavation on or in any street, or removes material from beneath any street so as to occasion risk of surface subsidence, shall be punishable with fine which may extend to fifty rupees.

165. Whoever quarries, blasts, cuts timber or carries on building-operations in such a manner as to cause, or be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, shall be punishable with fine which may extend to fifty rupees.

166. Whoever, contrary to the orders of the committee, pickets animals or collects carts on any public ground, or uses any such ground as a halting-place for vehicles or animals of any description or as a place of encampment, or causes or permits animals to stray, shall be punishable with fine which may extend to twenty rupees.

167. Whoever carries a corpse along a route prohibited by the committee, or in a manner likely to cause annoyance to the public, shall be punishable with fine which may extend to ten rupees.

168. Whoever, without being authorised by the committee, defaces or disturbs any direction-post or lamp-post, or extinguishes any light in any public place, shall be punishable with fine which may extend to ten rupees.

169. Whoever disobeys any lawful direction given by the committee by public notice under the powers conferred upon it by the last foregoing Chapter, or any written notice lawfully issued by it under the powers so conferred, or fails to comply with the conditions subject to which any permission was given by the committee to him under those powers, shall, if the disobedience or omission is not an offence punishable under any other section, be punishable with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day

after the first during which the breach continues:

Provided that, when the notice fixes a time within which a certain act is to be done and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

170. When any order of the kind specified in section 101, section 136 and section 169 is subject to appeal, and an appeal has been instituted against it, all proceedings to enforce such order and all prosecutions for any breach thereof shall be suspended pending the decision of the appeal, and, if such order is set aside on appeal, disobedience thereto shall not be deemed to be an offence.

171. Should the flesh of any cattle, sheep, goat or swine be brought within municipal limits in contravention of any bye-law made under section 143, it may be seized by any officer of the committee authorised in that behalf, and may be destroyed or otherwise disposed of as the committee may direct.

## CHAPTER VIII.

## EXTINCTION AND PREVENTION OF FIRE.

172. For the prevention and extinction of fire the committee may establish and maintain a fire-brigade and may provide any implements, machinery or means of communicating intelligence which the committee may think necessary for the efficient discharge of their duties by the brigade.

173. (1) On the occasion of a fire in a municipality any Magistrate, the secretary of the committee, any member of committee, any member of a fire-brigade maintained by the committee then and there directing the operations of men belonging to the brigade, and (if directed so to do by a Magistrate, or the secretary or a member of committee) any Police-officer above the rank of constable may—

- (a) remove or order the removal of any person who by his presence interferes with or impedes the operations for extinguishing the fire or for saving life or property;
- (b) close any street or passage in or near which any fire is burning;
- (c) for the purpose of extinguishing the fire break into or through or pull down, or cause to be broken into or through or pulled down, or used for the passage of hoses or other appliances, any premises;
- (d) cause mains and pipes to be shut off so as to give greater pressure of water in or near the place where the fire has occurred;
- (e) call on the persons in charge of any fire-engine to render such assistance as may be possible; and



*The Punjab Municipal Bill, 1891.**(Chapter VIII.—Extinction and Prevention of Fire.—Sections 174-175.**Chapter IX.—Control.—Sections 176-181.)*

(f) generally take such measures as may appear necessary for the preservation of life or property.

(2) No person shall be liable to pay damages for any act done by him under sub-section (1) in good faith.

(3) Any damage done in the exercise of a power conferred or a duty imposed by this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

174. The powers conferred by the last foregoing section shall be subject to any regulations, conditions or restrictions which may be imposed by rule.

175. No portion of this Chapter shall take effect in any municipality until it has been specially extended thereto by the Local Government at the request of the committee.

## CHAPTER IX.

## CONTROL.

176. (1) The Commissioner of the division or the Deputy Commissioner of the district may—

(a) enter on, inspect and survey, or cause to be entered on, inspected and surveyed, any immoveable property within the limits of the division or district respectively occupied by any committee or joint committee, or any work in progress within those limits under its directions;

(b) by order in writing call for and inspect any book or document in the possession or under the control of any committee or joint committee having authority within the said limits;

(c) by order in writing require any such committee or joint committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the committee as he may think fit to call for; and

(d) record in writing, for the consideration of any such committee or joint committee, any observations he may think proper in regard to the proceedings or duties of the committee.

(2) Every committee shall submit such periodical reports to the Deputy Commissioner or other authority as the Local Government may direct.

177. The Commissioner or Deputy Commissioner may, by order in writing, suspend, within the division or district respectively, the execution of any resolution or order of a committee or joint committee, or prohibit the doing of any act within the said limits which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely

to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

178. (1) In cases of emergency the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or of doing the act shall be forthwith paid by the committee.

(2) Should the expense be not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as may from time to time be possible, from that balance, in priority to all other charges against the same.

179. (1) When the Commissioner, after due enquiry, is satisfied that a committee of the first class has made default in performing any duty imposed upon it under this Act, he may, by an order in writing, fix a period for the performance of that duty; and, should it not be performed within the period so fixed, he may appoint some person to perform it, and may direct that the expense thereof shall be paid within such time as he may fix by the committee.

(2) Should the expense be not so paid, the Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as may from time to time be possible from that balance, in priority to all other charges against the same.

(3) The Deputy Commissioner shall have the same powers with respect to committees of the second class as are by this section conferred upon the Commissioner with respect to committees of the first class.

180. When the Deputy Commissioner makes any order under section 177, section 178 or section 179, he shall forthwith forward to the Local Government through the Commissioner, and, when the Commissioner makes any order under section 177 or section 179, he shall forthwith forward to the Local Government a copy thereof, with a statement of the reasons for making it, and with such explanation, if any, as the committee may wish to offer; and the Local Government may thereupon confirm, modify or rescind the order.

181. (1) The Local Government, and the Commissioners and Deputy Commissioners acting under the orders of the Local Government, shall be bound to require that the proceedings of committees shall be in conformity with law and with the rules in force under any enactment for the time being applicable to the Punjab generally or to the areas over which the committees have authority.

(2) The Local Government may exercise all powers necessary for the performance of

*The Punjab Municipal Bill, 1891.**(Chapter IX.—Control.—Sections 182-184.)*

this duty, and may, among other things, by order in writing, annul or modify any proceeding which it may consider not to be in conformity with law or with such rules as aforesaid.

(3) The Commissioner of the division and the Deputy Commissioner may, within their jurisdiction, for the same purpose exercise such powers as may be conferred upon them by rule made in this behalf by the Local Government.

182. (1) Should a committee be incompetent to perform, or persistently

Power of Local Government to supersede committee in case of incompetency, persistent default or abuse of powers.

make default in the performance of, the duties imposed on it by or under this or any other Act, or exceed or abuse its powers, the Local Government may, with the previous approval of the Governor General in Council, by notification, in which the reasons for so doing shall be stated, declare the committee to be superseded:

Provided that, in case of public emergency, such notification may be issued without the previous approval of the Governor General in Council, but shall be forthwith reported to the Governor General in Council and shall be subject to his orders.

(2) When a committee is so superseded, the following consequences shall ensue:—

(a) all members of the committee shall, from the date of the notification, vacate their seats:

(b) all powers and duties of the committee may, until the committee is reconstituted, be exercised and performed by such person as the Local Government may appoint in that behalf:

(c) all property vested in the committee shall, until the committee is reconstituted, vest in Her Majesty.

(3) The Local Government may, if it shall think fit, at any time constitute another committee in the place of any committee superseded under this section.

183. (1) If any dispute, for the decision of which this Act does not

Disputes.

otherwise provide, arises between two or more committees constituted under this Act, or between any such committee and a district board or cantonment authority, the matter shall be referred—

(a) to the Deputy Commissioner if the local authorities concerned are in the same district;

(b) to the Commissioner or Commissioners of the division or divisions if the local authorities concerned are in different districts; and

(c) to the Local Government if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

(2) The decision of the authority to which any dispute is referred under this section shall be final.

(3) If, in the case mentioned in clause (a), the Deputy Commissioner is a member of one of the committees or boards concerned, his functions under the section shall be discharged by the Commissioner.

184. (1) The Local Government may frame forms for any proceeding of a committee for which it considers that a form should be provided, and may make rules consistent with this Act—

Power of Local Government to frame forms and make rules.

(a) with respect to the powers and duties of committees in municipalities of the first and of the second class respectively;

(b) as to the division of municipalities into wards, or of the inhabitants into classes, or both;

(c) as to the number of representatives proper for each ward or class;

(d) as to the qualifications of electors and of candidates for election;

(e) as to the registration of electors;

(f) as to the nomination of candidates, the time of election and the mode of recording votes;

(g) generally for regulating all elections under this Act;

(h) fixing the term of office of members and presidents of committees;

(i) prescribing the qualifications requisite in the case of persons appointed by a committee to offices requiring professional skill;

(j) as to the priority to be given to the several duties of the committee;

(k) as to the authority on which money may be paid from the municipal fund;

(l) as to the appointment, promotion, suspension, reduction, fining and dismissal of municipal watchmen;

(m) as to the formation and working of municipal fire-brigades;

(n) as to the procedure to be observed for the punishment or dismissal of servants of the committee;

(o) as to the conditions on which property vested in the committee may be transferred by sale, mortgage, lease, exchange or otherwise;

(p) as to the intermediate office or offices, if any, through which correspondence between committees or members of committees and the Local Government or officers of that Government shall pass;

(q) as to the preparation of plans and estimates for works to be partly or wholly constructed at the expense of committees, and as to the person by whom, and the conditions subject to which, such plans and estimates are to be sanctioned;

(r) as to the accounts to be kept by committees, as to the conditions on which such accounts are to be open to inspection by inhabitants paying any tax under this Act, as to the manner in which such accounts are to be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;

(s) as to the preparation of estimates of income and expenditure of committees, and as to the person by whom, and the conditions subject to which, such estimates may be sanctioned;

(t) as to the returns, statements and reports to be submitted by committees;

*The Punjab Municipal Bill, 1891.*

(Chapter IX.—Control.—Section 185. Chapter X.—Supplemental.—Sections 186-190.)

- (u) as to the powers to be exercised by Commissioners and Deputy Commissioners under section 181;
- (v) as to the language in which business shall be transacted, proceedings recorded and notices issued;
- (w) as to the publication of notices; and
- (x) generally for the guidance of committees and public officers in carrying out the purposes of this Act.

(2) Rules under clause (g) of sub-section. (1) may, among other matters, provide—

- (i) for the investigation of allegations of corrupt practices or intimidation at elections;
- (ii) for making void the election of any person proved to the satisfaction of the Local Government or of the Commissioner, as the municipality may be of the first or of the second class, to have been guilty of corruption or intimidation, or to have connived at or abetted the exercise of corruption or intimidation on his behalf by any other person;
- (iii) for rendering incapable of municipal office either permanently or for a term of years any person whose election may have been made void as aforesaid for corruption or intimidation or for connivance at or abetment of the same; and
- (iv) for the definition of the practices at municipal elections which are to be deemed to be corrupt or to amount to intimidation.

185. In all matters connected with this Act the Local Government shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

General powers of Local Government and Commissioners.

## CHAPTER X.

## SUPPLEMENTAL.

*Prosecutions.*

186. No Court shall take cognisance of any offence punishable under this Act or any rule or bye-law except on the complaint of the committee or of some person authorised by the committee in this behalf.

*Explanation.*—The committee may authorise persons to prosecute either generally in regard to all offences against this Act and the rules thereunder or particularly in regard only to specified offences or offences of a specified class. The person authorised may be authorised by office if he is president, vice-president or secretary of the committee. In other cases the authority must be personal. The authority must in all cases be in writing, and may at any time be cancelled by the committee.

187. (1) In any municipality of the first class the Local Government may empower the committee, or its president, vice-president, or secretary, or any sub-committee thereof, to accept from any person against whom a reasonable suspicion exists that he has committed an offence against this Act or any rule or bye-law a sum of money by way of composition for such offence.

(2) On payment of such sum of money the suspected person if in custody shall be discharged, and no further proceedings shall be taken against him in regard to the offence or alleged offence so compounded for.

(3) Sums paid by way of composition under this section shall be credited to the municipal fund.

(4) Power under sub-section (1) to accept composition for alleged offences may be given either generally in regard to all offences under this Act and the rules and bye-laws, or particularly in regard only to specified offences or offences of a specified class, and may at any time be withdrawn by the Local Government.

(5) The Local Government may make rules to regulate the proceedings of persons empowered to accept composition under this section for alleged offences.

188. No Judge or Magistrate shall be deemed to be a party to, or personally interested in, any prosecution for an offence punishable under this Act or any rule or bye-law, or under any other law, within the meaning of section 555 of the Code of Criminal Procedure, 1882, by reason only that he is a member of the committee by the order, or under the authority, of which it has been instituted.

X of 1882.

*Rules and Bye-laws.*

189. (1) The authority empowered to make any rules or bye-laws which require the sanction of the Local Government shall, before making such rules or bye-laws, publish, in such manner as may, in its opinion, be sufficient for giving information to persons interested, a draft of the proposed rules or bye-laws, with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making such rules or bye-laws, receive and consider any objection or any suggestion which may be made by any person with respect to the draft before the date so specified.

(2) If, on such consideration of the draft, any modification is made, the Local Government shall determine whether it is desirable to republish the draft under this section.

(3) Every such rule or bye-law shall be notified in English, and in such other language or languages as the Local Government may direct; and such notification shall be conclusive evidence that such rule or bye-law has been made as is required by this section.

190. (1) A copy of all rules and bye-laws made under this Act for any municipality shall be kept at the committee's office, and shall be open during office hours without charge to the inspection of any inhabitant.

(2) Copies of all such rules and bye-laws shall be kept at the committee's office for sale to the public at a price not exceeding one rupee.

*The Punjab Municipal Bill, 1891.**(Chapter X.—Supplemental.—Sections 191-195.)**Notices.*

**191.** (1) Every notice issued by a committee under this Act or under any rule or bye-law shall be in writing, signed by the president, vice-president, secretary or assistant secretary, or by the members of any sub-committee specially authorised by the committee in that behalf, and may be served on the person to whom it is addressed, or delivered or left at his usual place of abode or business with some adult male member or servant of his family, or, if it cannot be so served, may be affixed to some conspicuous part of his place of abode or business.

(2) When the place of abode or business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(3) If the owner of any property has no abode or place of business within the municipality, every such notice addressed to him as such owner may be served on the occupier.

(4) When the place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by affixing it to some conspicuous part of the property.

(5) No notice issued by the committee under this Act or under any rule or bye-law shall be invalid for defect of form.

**192.** When any notice is under the provisions of this Act to be given to or served on the owner or occupier of any property and he is unknown, it may be given or served—

(a) by delivering a written notice to some person on the property, or should there be no person on the property to whom it can be delivered, by affixing it to some conspicuous part of the property; or

(b) by putting into the post a prepaid letter containing a written notice, and addressed by the description of the "owner" or "occupier" of the property (naming it) in respect of which the notice is given, without further name or description.

**193.** Every public notice given by a committee under this Act or any rule or bye-law shall be published by proclamation or in such other manner as the Local Government may, by rule, direct.

*Alteration of Boundaries and Class of Municipality.*

**194.** The Local Government may, by notification published in the official Gazette, and in such other manner as it may determine, declare its intention—

(a) to exclude from a municipality any local area comprised therein and defined in the notification; or

(b) to include within a municipality any local area in the vicinity of the same and defined in the notification;

Provided that, where the local area is a military cantonment or part of a military cantonment, no notification affecting it shall be published under this section without the previous consent of the Governor General in Council.

**195.** (1) Any inhabitant of a municipality or local area in respect of which a notification has been published under section 194 may, should he object to the alteration proposed, submit his objection in writing through the Deputy Commissioner to the Local Government within six weeks from the publication of the notification in the Gazette; and the Local Government shall take such objection into consideration.

(2) When six weeks from the publication of the notification have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by notification, exclude the local area from the municipality or include it therein as the case may be.

**196.** (1) When any local area has been excluded from a municipality under section 195,—

(a) this Act, and all rules, bye-laws, orders, directions and powers made, issued or conferred under this Act shall cease to apply thereto; and

(b) the Local Government shall, after consulting the committee, frame a scheme determining what portion of the balance of the municipal fund and other property vested in the committee shall vest in Her Majesty for the benefit of such local area, and in what manner the liabilities of the committee shall be apportioned between the committee and the Secretary of State for India in Council; and, on the scheme being notified, the property and liabilities shall vest and be apportioned accordingly.

(2) All property vested in Her Majesty under sub-section (1) shall be applied under the orders of the Local Government to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the safety, health, welfare or convenience of the inhabitants of the said local area.

**197.** When any local area has been included in a municipality under section 195, this Act, and, except as the Local Government may otherwise by notification direct, all rules, bye-laws, orders, directions and powers made, issued or conferred under this Act and in force throughout the whole municipality at the time, shall apply to such area.

**198.** The Local Government may, after consulting the committee, direct, by notification, that any municipality be transferred from one class to another.

*The Punjab Municipal Bill, 1891.**(Chapter X.—Supplemental.—Sections 199-206.)*

*Powers to except and withdraw Municipalities from provisions of Act.*

199. (1) Should the circumstances of any municipality be such that, in the opinion of the Local Government, any of the provisions of this Act are unsuited thereto, the Local Government may, by notification, except the municipality from the operation of those provisions; and thereupon the said provisions shall not apply to the municipality until applied thereto by notification.

(2) While such exception as aforesaid remains in force, the Local Government may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

200. (1) The Local Government may, by notification, withdraw the whole area comprised in any municipality from the operation of this Act.

(2) When a notification is issued under this section in respect of any local area, this Act, and all rules, regulations, bye-laws, orders, directions and powers made, issued or conferred under this Act, shall cease to apply to the said area; and the balance of the municipal fund, and all other property at the time of the issue of the notification vested in the committee, shall vest in Her Majesty, and the liabilities of the committee shall be transferred to the Secretary of State for India in Council.

(3) All property vested in Her Majesty under sub-section (2) shall be applied under the orders of the Local Government to discharge the liabilities imposed on the Secretary of State for India in Council by that sub-section, or for the promotion of the safety, health, welfare or convenience of the inhabitants of the said area.

*Miscellaneous.*

201. Any arrears of any tax or fee or any other money claimable by a committee under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property within those limits belonging to the person from whom the money is claimable.

202. When any building used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious sentiments of the occupiers; and, before any apartment in the actual occupancy of any woman, who according to custom does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

203. (1) In the absence of a written contract to the contrary, every sweeper employed by a committee shall be entitled to one month's notice before discharge or to one month's wages in lieu thereof, unless he is discharged for misconduct or was engaged for a specified term and discharged at the end of it.

(2) Should any sweeper employed by a committee in the absence of a written contract authorising him so to do and without reasonable cause resign his employment or absent himself from his duties without giving one month's notice to the committee, or neglect or refuse to perform his duties or any of them, he shall be liable to imprisonment which may extend to two months.

(3) The Local Government may, by notification, direct that, on and from a date to be specified in the notification, the provisions of sub-sections (1) and (2) with respect to sweepers shall apply also to any specified class of servants employed by any committee whose functions intimately concern the public health or safety.

204. (1) On the complaint of three or more inhabitants of a municipality that a house in their immediate neighbourhood and within the limits of the municipality is used as a brothel or by disorderly persons of any description to the annoyance of the respectable inhabitants of the vicinity, any Magistrate of the first class having, as such, jurisdiction in the place where the house is situated may summon the owner or tenant of the house to answer the complaint; and on being satisfied that the house is so used, and is a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it, and, if he shall fail to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used.

(2) This section shall not take effect in any municipality until it has been specially extended thereto by the Local Government at the request of the committee.

205. (1) When any person, by reason of his receiving the rent of immoveable property as agent or trustee, or of his being as agent or trustee the person who would receive the rent if the property were let to a tenant, would, under this Act, be bound to discharge any obligation imposed by this Act on the owner of the property and for the discharge of which money is required, he shall not be bound to discharge the obligation, unless he has, or but for his own improper act or default might have had, in his hands funds belonging to the owner sufficient for the purpose.

(2) The burden of proving the facts entitling an agent or trustee to relief under this section shall lie on him.

(3) When any agent or trustee has claimed and established his right to relief under this section, the committee may give him notice to apply to the discharge of such obligation as aforesaid the first moneys which shall come to his hands on behalf or for the use of the owner, and should he fail to comply with such notice, he shall be deemed to be personally liable to discharge such obligation.

206. Should any question arise whether any person or specified class of persons is or are an inhabitant or inhabitants of a local

Decision of question as to whether persons are "inhabitants."



*The Punjab Municipal Bill, 1891.*

(Chapter X.—Supplemental.—Sections 207-209. Chapter XI.—Small Towns.  
—Sections 210-214. Schedule.)

area within the meaning of this Act, the decision thereon of the Commissioner of the division shall be conclusive.

207. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.  
XI of 1879. Saving of Act XI of 1879.

*Simla.*

208. Whereas there is at present levied on certain lands situate in the municipality of Simla a tax at the rate of ten rupees per two thousand five hundred square yards or fraction of two thousand five hundred square yards, the said tax shall be deemed to be a tax lawfully imposed and assessed under this Act and leviable in addition to any other tax leviable hereunder.

209. The house and frontage taxes which Simla house and have been levied in the frontage taxes. municipality of Simla since the year 1885 shall, at the rates charged in the year 1890, be deemed to have been and to be duly imposed under this Act.

## CHAPTER XI.

## SMALL TOWNS.

210. (1) The Local Government may, by notification, declare that, with respect to some or all of the matters upon which a municipal fund may be expended under section 72, improved arrangements are required within a specified area, which, nevertheless, it is not expedient to constitute as a municipality.

(2) An area in regard to which a notification has been issued under sub-section (1) is hereinafter called a notified area.

(3) No area shall be made a notified area if it contains more than ten thousand inhabitants according to the returns of the most recent official census, or unless it contains a town or bazaar and is not a purely agricultural village.

Power of Local Government to impose taxation and regulate expenditure of proceeds thereof.

211. (1) The Local Government may—

(a) impose in any notified area any tax which could be imposed there by the committee if the notified area were a municipality;

(b) apply or adapt to the notified area, for the assessment and recovery of any tax imposed under clause (a), any of the provisions of this Act, or of any rules for the time being in force, with respect to the assessment and recovery of any tax imposed under this Act;

(c) arrange for the due expenditure of the proceeds of taxes imposed under clause (a), and for the preparation and maintenance of proper accounts;

(d) appoint a committee of one or more persons for the purposes of clauses (b) and (c);

(e) extend to any notified area the provisions of any section of this Act, subject to such restrictions and modifications, if any, as the Local Government may think fit.

(2) The proceeds of any tax levied in any notified area under this section shall be expended only in some manner in which the municipal fund of such notified area might be expended if the notified area were a municipality.

212. For the purposes of any section of this Act which may be extended to a notified area, the committee appointed for such area under section 211 shall be deemed to be a municipal committee under this Act and the area to be a municipality.

213. The Local Government may at any time cancel any notification under section 210.  
Discontinuance of notified areas.

214. When by reason of any order of cancellation under the last foregoing section any notified area ceases to be notified, the unexpended proceeds of any taxes levied therein under section 211 shall be applied for the benefit of the inhabitants of the said area as the Local Government may think fit.

## SCHEDULE.

(List of places referred to in section 42.)

SIMLA.

DALHOUSIE.

DHARAMSALA.

MURREE.

L. PORTER,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Lower Burma Municipal Act, 1884, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 1st October 1891:

We, the undersigned Members of the Select Committee to which the Bill to amend the Lower

From E. Garnet Man, Esq., Barrister-at-Law, Rangoon, No. 29, dated 18th August, 1891, and enclosures [Papers No. 1].  
Telegram from Chief Commissioner, Burma, No. 143-C, dated 3rd September, 1891; letter from Government of India, Home Department, to Chief Commissioner of Burma, No. 88, dated 2nd September, 1891; telegram from Chief Commissioner, Burma, to Government of India, Home Department, No. 142-C, dated 2nd September, 1891; endorsement by Government of India, Home Department, No. 96, dated 4th September, 1891 [Papers No. 2].  
From E. Garnet Man, Esq., Barrister-at-Law, Rangoon, No. 40, dated 4th September, 1891, and enclosures [Papers No. 3].  
From Chief Commissioner, Burma, No. 377-8-R.M., dated 14th September, 1891, and enclosures [Papers No. 4].

Burma Municipal Act, 1884, was referred, have considered the Bill and the papers noted in the margin, and have now the

honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. *Section 2.*—We have altered the word "tax" to "toll" as the latter term appears more appropriate. We have also added provisions, similar to those inserted in section 42 of the Punjab Municipal Bill, exempting from the toll animals and vehicles already taxed under clause (d), and empowering the owners of animals or vehicles to compound for exemption from tolls by paying the amount of the tax leviable under clause (d).

3. *Section 3.*—We have substituted for clause (k) of section 61, sub-section (2), of the Act the corresponding provisions of the Punjab Municipal Bill (section 72, sub-section (2), clause (k)). We consider that the committee should have power, subject to the sanction of the Local Government, to spend the municipal funds on such objects as public receptions, &c. The want of such powers has been felt in other parts of India.

4. *Section 4.*—We have substituted "six weeks" for "one month" in sub-section (2) of section 75 to bring the provisions of this Bill into conformity with those adopted for the Punjab. In clause (c) we have added the words "and for the prevention of fire;" this addition appears absolutely necessary. The words "erection or" have been struck out of the proviso, as we do not consider that any compensation should be claimable in consequence of the prohibition of the erection on land previously vacant of an objectionable building. We have struck out certain words from clause (d) of sub-section (4) as we do not consider that the conversion of two or more dwelling-houses into one should be subjected to any restrictions, especially as in clause (e) we have provided for such alterations as may affect the security of any house.

5. *Section 5.*—We have added a new section (75 A). It appears to be a desirable provision. It has been taken from section 93 of the Punjab Municipal Bill; and, as the section will not come into force in any municipality until it has been extended to it by the Local Government at the request of the committee, there is no reason to apprehend that it will prove oppressive.

6. *Section 6.*—In section 91, sub-section (1), of the Act we have enabled the committee to call on the owner of any house, &c., to remove objectionable privies, &c. We consider that the duty of carrying out such works should fall on the owner and not on the tenant.

7. *Section 7.*—We have adopted the suggestion, which appears a reasonable one, that sub-section (3) of section 92 of the Act should not come into force in any municipality until it has been specially extended thereto by the Local Government at the request of the committee. We believe that this provision sufficiently meets the objections raised to the clause as it originally stood.

8. *Section 8.*—The amendment of clause (h), section 106, of the Act has been necessitated by the addition made to section 41.

9. The publication ordered by the Council has been made as follows :—

In English.	
Gazette.	Date.
Gazette of India . . . . .	22nd August, 1891.
Burma Gazette . . . . .	29th August, 1891.

10. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

PHIL. P. HUTCHINS.  
ALEX. EDW. MILLER.  
W. H. RATTIGAN.

The 30th September, 1891.

## No. II.

### A Bill to amend the Lower Burma Municipal Act, 1884.

WHEREAS it is expedient to amend the Lower Burma Municipal Act, 1884; It is hereby enacted as follows :

1. In section 2 of the Lower Burma Municipal Act, 1884, the word "and" at the end of the definition of "inhabitant" shall be omitted, and, after the definition of "street," the following shall be inserted, namely :

" 'sewage' means night-soil and other proper contents of water-closets, latrines, urinals, privies, drains and cesspools :

" 'drain' includes a sewer, pipe, ditch or channel, or any other device for carrying off sulliage, sewage or polluted water : and

" 'drainage-connection' includes—

- (a) any drain or pipe between any water-closet, latrine, urinal, privy, bathroom, cookroom, sink, sulliage-tray, manhole or trap on the one hand and any sewer or drain set apart by the committee for sulliage, sewage and other offensive matter on the other hand, and
- (b) any cistern, flush-tank, land, building, machinery, work or thing for collecting and passing into any sewer or drain vested in the municipal committee, or used for so collecting and passing, any sulliage, sewage or polluted water."

2. In section 41, sub-section (1), division (A), of the said Act the following shall be added after clause (d), namely :

"(e) a toll on vehicles and animals used as aforesaid entering the municipality and not liable to taxation under the preceding clause :

*Provided that any person may compound for exemption from all tolls leviable in respect of any animal or vehicle under this clause by paying*

*the tax which would have been leviable in respect thereof under clause (d) if the same had been kept within the municipality."*

3. For section 61, sub-section (2), clause (b), the following shall be substituted, namely :

"all acts and things which are likely to promote the safety, health, welfare or convenience of the inhabitants, or expenditure whereon may be declared by the committee, with the sanction of the Local Government, to be an appropriate charge on the municipal fund."

4. For section 75 of the said Act the following shall be substituted, namely :

"75. (1) Every person intending to erect or re-erect any building shall, if required by rule made by the committee in this behalf to do so, give notice in writing of his intention to the committee, and shall, if required by rule made by the committee in this behalf to do so, submit with such notice—

- (i) a site-plan of the land ;
- (ii) where the land belongs to the Government or the committee, a certified copy of the document or documents authorising him to occupy the land, and, on the requisition of the committee, the original document or documents also if the committee desires to inspect it or them ;
- (iii) a plan showing the levels at which the foundation and lowest floor or plinth are proposed to be laid, and specifications of the work intended to be constructed and the materials to be used.

"(2) The committee may at any time within six weeks thereafter, by notice, either prohibit the erection or re-erection of such building if deemed likely to be injurious to the inhabitants

of the neighbourhood, or give any directions consistent with this Act in respect of all or any of the matters following, namely:

- (a) trespass or encroachment on land belonging to the Government or the committee;
- (b) free passage or way in front of the building;
- (c) space to be left about the building to secure free circulation of air and facilitate scavenging and for the prevention of fire;
- (d) ventilation and drainage;
- (e) level and width of foundation, level of lowest floor or of plinth and stability of structure;
- (f) line of frontage with neighbouring buildings if the building abuts on a street or public thoroughfare; and
- (g) situation of water-closets, latrines, urinals, privies, drains, cesspools, traps, sinks, sulliage-trays and wells:

Provided that the committee shall make full compensation to the owner for any damage which he may sustain in consequence of the prohibition of the re-erection of any building, or of its requiring any land belonging to him to be added to the street.

"(3) If any building is begun or erected or re-erected in contravention of any such rule as aforesaid, or in disobedience to any such prohibition as aforesaid, or in contravention of any such written direction as aforesaid, the committee may, by notice, require the building to be altered or demolished, as it may deem necessary.

"(4) The expression 'erect or re-erect any building' includes—

- (a) any material alteration or enlargement of any building,
- (b) the conversion into a place for human habitation of any building not originally constructed for human habitation,
- (c) the conversion into more than one place for human habitation of a building originally constructed as one such place,
- (d) the conversion of two or more places of human habitation into a greater number of such places,
- (e) such alteration of the internal arrangements of a building as effects an alteration of its drainage or sanitary arrangements, or affects its security, and
- (f) the addition of any rooms, buildings, out-houses or other structures to any building."

5. After section 75 the following section shall be added, namely:

Addition of new section after section 75, Act XVII, 1884.

"75A. (1) The committee may by rules regulate in respect of the erection or re-erection of any building within the municipality—

- (a) the materials and method of construction to be used for external and party walls, roofs, floors, fire-places and chimneys;
- (b) the position of fire-places, chimneys, drains, privies and cesspools;

(c) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on;

(d) the number and height of the storeys of which the building may consist; and

(e) the means to be provided for egress from the building in case of fire:

Provided that the committee may by resolution dispense with the observance of any or all of the rules made under this section in regard to the erection or re-erection of any building specified in the resolution."

(2) If in and during the erection or re-erection of any building any rule under this section is contravened, the committee may by notice, to be delivered within a reasonable time, require the building to be altered or demolished within the space of thirty days as it may deem necessary:

Provided that no such notice shall issue in respect of the contravention of any rule of which the observance has been dispensed with under the proviso to sub-section (1).

(3) This section shall not take effect in any municipality until it has been specially extended thereto by the Local Government at the request of the committee."

6. For section 91 of the said Act the following shall be substituted, namely: Substitution of new section for section 91, Act XVII, 1884.

"91. (1) The committee may, by notice, require the owner of any building or land to remove or provide, in such manner as the committee may direct, any water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray, or any additional water-closets, latrines, urinals, privies, drains, cesspools, traps, sinks or sulliage-trays, which should, in its opinion, be provided for the building or land.

"(2) The committee may, by notice, require any person employing more than twenty workmen or labourers to provide such water-closets, latrines, urinals, privies, drains, cesspools, traps, sinks or sulliage-trays as it may think fit, and to cause the same to be kept in proper order and to be daily cleaned.

"(3) The committee may, by notice, require the owner or occupier of any building or land to have any water-closet, latrine, urinal or privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the committee may direct, any door or trap-door of a water-closet, latrine, urinal or privy opening on to any street or drain."

7. For section 92 of the said Act the following shall be substituted, namely: Substitution of new section for section 92, Act XVII, 1884.

"92. (1) The committee may, by notice, require the owner or occupier of any building or land to close, repair, alter or put in good order any water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray belonging thereto.

"(2) The committee may, by notice, require any person who constructs any new water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray without its permission in writing or contrary to its directions or regulations or to the provisions of this Act, or who constructs, re-builds or opens any water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray which it has ordered to be demolished or stopped up or not to be made, to demolish the water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray, or to make such alteration therein as it thinks fit.

[Madras Act  
I of 1884, s.  
273.]

"(3) Where any building or land situated within one hundred feet of one of the sewers or drains set apart by the committee for sulliage, sewage or other offensive matter is at any time not drained to the satisfaction of the committee by any or a sufficient drainage-connection with such sewer or drain, the committee may by notice require the owner of such building or land to make and maintain a drainage-connection with the sewer or drain in such manner as the committee may, by rule made with the sanction of the Local Government, direct.

"This sub-section shall not take effect in any municipality until it has been specially extended thereto by the Local Government at the request of the committee.

"(4) The provisions of sections 109 and 110 of this Act shall apply to any default in compliance with any requisition under the last preceding sub-section, notwithstanding that part of the land through which the said drainage-connection is required to pass may not belong to the person so making default, unless he shall prove that the default was caused by the act of the owner or occupier of such last-mentioned land."

8. In section 106, clause (h), the word "and" at the end of the clause shall be omitted; and after the said clause the following clause shall be added, namely:

"(hA) for requiring and regulating the exhibition of tables showing the rates of tolls chargeable on vehicles and animals entering the municipality; and".

L. PORTER,

Offg. Secretary to the Government of India.



GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 1st October 1891:

NO. 14 OF 1891.

*A Bill to amend the Upper Burma Laws Act, 1886.*

WHEREAS it is expedient to amend the Upper Burma Laws Act, 1886; It is hereby enacted as follows:

1. (1) This Act may be called the Upper Burma Laws Act Amendment Act, 1891; and

(2) It shall come into force at once.

2. Clause (b) of section 7, sub-section (1), of the Upper Burma Laws

Act, 1886, is hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

SINCE the passing of the Upper Burma Laws Act, 1886,\* the powers and duties of thugyis and myothugyis have been fully defined by the Upper Burma Village Regulation, 1887. Their position under that Regulation is rather that of a petty Magistrate and Civil Judge than of a Police-officer. It is desirable that this position should be fully recognized, and that they should be freed from the petty annoyances to which they are at present not infrequently subjected by subordinate Police-officers under the idea that they are merely village-police.

\* Act XX of 1886.

*The 24th September, 1891.*

ALEX. EDW. MILLER.

L. PORTER,

*Offg. Secretary to the Government of India.*

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 1st October 1891:

NO. 15 OF 1891.

*A Bill to extend the Inland Emigration Act, 1882.*

1882. WHEREAS it is expedient to extend the Inland Emigration Act, 1882; It is hereby enacted as follows:

1. The Inland Emigration Act, 1882, is hereby extended to the territories administered by the Chief Commissioner of the Central Provinces.

2. It shall be lawful for the Governor in Council, with the previous sanction of the Governor General in Council, by notification in the Fort St. George Gazette, to extend the said Act to the whole or any portion of the Madras Presidency.

STATEMENT OF OBJECTS AND REASONS.

THE object is stated in the title.

It is very desirable to open up a further field for the supply of coolie labour in the interest not only of the districts requiring the labour, but also of the immigrants themselves; and it is believed that such a field can be found to advantage in the Central Provinces.

In the Madras Presidency labourers for Assam are even now recruited under a local Act in the districts of Ganjam and Vizagapatam, and the Local Government have expressed a wish for legislation which will admit of Act I of 1882 being put into force in suitable portions of that Presidency.

*The 30th September, 1891.*

PHIL. P. HUTCHINS.

L. PORTER,

*Offg. Secretary to the Government of India.*



# The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 18, 1891.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART VI.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT 24 & 25 VICT., CAP. 67.

The Council met at Viceregal Lodge, Simla, on Thursday, the 16th July, 1891.

### PRESENT.

The Hon'ble Sir P. P. Hutchins, K.C.S.I., *presiding*.  
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.  
His Excellency the Commander-in-Chief, BART., V.C., G.C.B., G.C.I.E., R.A.  
The Hon'ble Sir D. M. Barbour, K.C.S.I.  
The Hon'ble Sir A. E. Miller, Kt., Q.C.  
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.  
The Hon'ble Colonel R. C. B. Pemberton, R.E.

### BANKERS' BOOKS EVIDENCE BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Hon'ble Mr. Rattigan be added to the Select Committee on the Bill to amend the Law of Evidence with respect to Bankers' Books. He said that, as nothing had as yet been done in the Select Committee, he thought it as well to utilise Mr. Rattigan, and, with that object, a copy of the Bill had been sent to him.

The Motion was put and agreed to.

### MADRAS SMALL CAUSE COURT BILL.

The Hon'ble SIR PHILIP HUTCHINS asked for permission to postpone till the next Meeting of the Council the Motion for leave to introduce a Bill for authorizing the transfer of certain jurisdiction from the High Court of Judicature at Madras to the Court of Small Causes of Madras.

Permission was granted.

### INDIAN CHRISTIAN MARRIAGE ACT, 1872, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to validate certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872. He said:—

"Part VI of the Indian Christian Marriage Act is only adapted for a case in which both parties being married are Christians, and it appears that some of

the Registrars appointed, not having noticed that, have solemnised marriages under this Part in certain cases where only one of the parties was a Christian; consequently, under the existing law, these marriages are invalid. The object of the Bill is to validate those marriages which have already taken place, and to take steps to prevent the possibility of the same thing happening in the future."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 23rd July, 1891.

S. HARVEY JAMES,

SIMLA;  
The 17th July, 1891. }

Secretary to the Government of India,  
Legislative Department.



# The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 25, 1891.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART VI.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT 24 & 25 VICT., CAP. 67.

The Council met at Viceregal Lodge, Simla, on Thursday, the 23rd July, 1891.

### PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G.,  
G.M.S.I., G.M.I.E., *presiding*.

His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.

His Excellency the Commander-in-Chief, BART., V.C., G.C.B., G.C.I.E., R.A.

The Hon'ble Sir P. P. Hutchins, K.C.S.I.

The Hon'ble Sir D. M. Barbour, K.C.S.I.

The Hon'ble Sir A. E. Miller, Kt., Q.C.

The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.

The Hon'ble Colonel R. C. B. Pemberton, R.E.

### MADRAS SMALL CAUSE COURT BILL.

The Hon'ble SIR PHILIP HUTCHINS moved for leave to introduce a Bill to extend the jurisdiction of the Court of Small Causes of Madras. He said:

"As indicated by its title, the effect of this Bill, when it becomes law, will be to transfer the cognizance of certain original civil suits, arising within what is called the City of Madras, from the High Court to the Court of Small Causes. It will give to the Madras Small Cause Court a jurisdiction which is at present excluded from it by section 19 of the Presidency Small Cause Courts Act of 1882, and that is the reason why it has to be introduced in this Council; but it is really a local measure only, and it has been framed in order to give effect to proposals which have been frequently pressed on the Government of India by the Governor of Madras in Council.

"Last year, after we had obtained the approval of Her Majesty's Secretary of State to those proposals, we drew up a rough Bill and transmitted it to Madras in order that before its introduction we might be quite certain that it expressed the intentions of the local authorities. This rough sketch was unfortunately treated as a carefully prepared measure which the Government of India was determined, without any regard to local criticisms and at all hazards, to pass into law



before the day which the Secretary in the Legislative Department had, in accordance with ordinary practice, tentatively inserted as the date on which it might come into force. The day thus fixed happened to fall within the High Court's vacation, and a cry was at once raised that our aim was to abrogate the Court's jurisdiction without allowing the Judges a chance of being heard. This point was immediately put right by its being explained that the 1st July was merely a tentative date; that we had no sort of desire to hurry on the Bill; and that in any case it would have to be circulated after introduction, when, according to rule, a reasonable time would be allowed for its consideration and criticism by every one concerned. I am afraid, however, that the idea which got abroad that we were trying to rush the Bill in spite of opposition has not even now been altogether dissipated; and it seems to have infected the mind of the High Court itself as then constituted, for the Hon'ble the Judges repeatedly declare that the measure has been launched without that serious attention and consideration which its gravity demands. I shall presently show that the outlines of the scheme had emanated from the High Court itself, and had been under the consideration of the local authorities for something close on twenty years. Those outlines, however, had perhaps been filled in by our sketch draft in a manner which was open to some objection; and before I proceed further it will be well to make clear both what the Bill which I now lay on the table contains and in what respects it differs from the rough draft to which I have referred.

"And, first, as to the date on which the measure is to come into force, in order to avoid all possibility of future misunderstanding I propose to allow the Governor in Council to appoint the day by notification in the Fort St. George Gazette.

"In the second place, I have cut out all reference to the insolvency jurisdiction. The Government of India recognize the disadvantage of a dual jurisdiction in such matters, and fully accept the assurance of the Hon'ble the Chief Justice that an alteration of the present practice would fail to afford any material relief to the High Court.

"In the third place, at the suggestion of my hon'ble and learned friend Sir Alexander Miller, I have preserved the concurrent jurisdiction of the High Court even in those cases which are to be brought within the cognizance of the Court of Small Causes. Personally I am inclined to agree with the Local Government in this matter, and to hold that we ought to apply the ordinary rule laid down in the Code of Civil Procedure, which is that, when a transfer of jurisdiction is made from a superior to an inferior Court, the power of the former to take cognizance of cases included in such jurisdiction, except by specially calling them up for trial, is *ipso facto* ousted. Section 15 of the Code enacts that every suit must be instituted in the Court of the lowest grade competent to try it, and therefore in no other Court. My own view with reference to the change of jurisdiction now under consideration is that, until the new tribunal has proved its ability to deal with cases involving difficult questions of mercantile law and usage, it would not only be right and proper for the High Court, but would even be its duty, to lend a favourable ear to an application that such a suit should be called up for trial by itself. The Hon'ble the Judges have, however, repudiated the idea of any understanding as to the course which they would adopt, and, as it is impossible to fetter their discretion upon such a point by legislation, the only alternative seems to be to allow plaintiffs for the present and under certain conditions to choose their own forum. The condition will be similar to that which already prevails in regard to suits cognizable by the Small Cause Court under the existing law. If the plaintiff chooses to resort to the High Court when he might go to the Small Cause Court, he will be debarred from recovering costs, and in case of failure he will have to pay costs as between attorney and client, unless the presiding Judge certifies that the suit was one fit to be brought in the High Court. According to my recollection, there is no class of plaintiffs who give the High Court more trouble than paupers, and I do not think that any provision as to costs is likely to influence them much in the choice of a forum. Perhaps the Hon'ble the Judges may wish to propose some special proviso for the exclusion of pauper suits from the High Court; but I will not venture to do more than suggest the matter for their consideration in this general way.

"Then as regards court-fees, the chief ground, and I think, I may say, the only ground, on which the High Court based its suggestion that the Bill had been launched without due consideration was that the sketch draft omitted to say in so many words what scale of court-fees should be levied. We intended that the scale which Chapter X of the Act lays down for small causes proper should be followed in regard to all suits which might be instituted in the Court of Small Causes. The High Court considers that this Chapter cannot apply to suits which are excluded by section 19 of the Act, and to meet this objection it has now been provided in the Bill that Chapter X of the Presidency Small Cause Courts Act shall govern all proceedings which may be heard before the Court or any Judge thereof.

"I now come to another point about which the High Court as constituted last September has expressed itself with perhaps unnecessary warmth. The jurisdiction which the draft Bill before them, which, as I have so frequently pointed out, was only a rough attempt to sketch what was believed to be the intention of the local authorities and should have been so treated—the jurisdiction which that draft purported to make over to the Small Cause Court included suits up to the value of Rs. 2,500, but reserved power to the Local Government to extend this limit by notification. The idea was that the suits up to Rs. 2,500 might prove either too few to occupy one Judge of the Small Cause Court, or too many for one Judge, but not enough for two, and that the Legislature, having established the principle that the original jurisdiction should be reasonably divided between the High Court and the Court of Small Causes, might leave it to the Local Government to make the necessary adjustment from time to time with reference to the business to be done. There was certainly no thought of giving the Executive Government power to extinguish the High Court's original jurisdiction altogether; and, if at any time His Excellency the Governor in Council had been so ill-advised as to make any attempt to do this, it could easily have been defeated by the High Court calling up such cases as it thought proper to its own file. The fact was that we did not contemplate the possibility of the Executive Government exercising its powers without reference to the Judges and otherwise than substantially in concurrence with their advice. The High Court had itself proposed the transfer and might reasonably have been expected to give it effect as from time to time might seem reasonable. As, however, the objection has been raised, and it is perhaps within the bounds of possibility that a Governor in Council might go beyond what is reasonable, and even that he might succeed in securing that previous sanction of the Government of India which the sketch draft made indispensable, there can be no objection to the Legislature fixing any fair limit to his powers. The limit suggested in the Bill which I have laid on the table is Rs. 10,000, but the precise figure is open to revision, and will be a matter for the consideration of the Select Committee. On the other hand, now that the concurrent jurisdiction of the High Court is to be maintained, I think the pecuniary value of suits to be transferred to the Small Cause Court absolutely and without any special order of the Local Government may well be raised from Rs. 2,500 to Rs. 5,000.

"Hon'ble members will have now gathered the exact practical effect of the Bill which I have laid before them. Stated in a few words, it is this. There will be a regular side to the Court of Small Causes at Madras. It will try all ordinary suits up to a value of Rs. 5,000 which are not already cognizable on the small cause side of the Court. Some few classes of suits are excepted, and, speaking generally, it may be stated that the admiralty, matrimonial and testamentary jurisdiction of the High Court will remain unimpaired. It will be left to the Chief Judge to depute any member or members of the Court to preside from time to time on the regular side. The procedure will be governed by the Code of Civil Procedure, and the decrees will be subject to appeal to the High Court. Power is reserved to the Local Government to extend the pecuniary limit of this regular jurisdiction from Rs. 5,000 to any sum not exceeding Rs. 10,000; and it is intended that they should exercise this power with reference to the number of Judges who can be made available in the High Court and Small Cause Court respectively, and the business which has to be distributed between them. In other words, without going so far as to establish a District Court with fixed powers, which shall oust the jurisdiction of the High Court, and the Judge of which might not have enough work or might have too much, we shall make use of machinery which already exists, and apply it under conditions so

elastic that it will be in the power of the Local Government to assign to the inferior Court just so much work as may fully occupy the one, one and a half, two or even three Judges whom it is prepared to employ over and above those required for small cause work proper, and to reserve for the High Court so much of the more important original civil business as with the criminal sessions and insolvency work will occupy the one Judge, or it may be one and a half, who can be spared from the appellate side of the High Court. My own view of the situation is that in all probability one Judge ought to be ample for the whole of the original work which deserves to be retained in the High Court. Whether a single Judge will be enough for the regular side of the Small Cause Court must depend on the effect which this legislation may have on the petty litigation of the City. It has been all along recognized that it is likely to cause a considerable increase in the number of suits, and it may well be that the work will be beyond the powers of a single Judge even with the occasional aid of a colleague not at the time required for the small cause work. Should this prove to be the case, the Local Government can at once apply an effectual remedy by appointing a temporary additional Judge, or by enlarging the jurisdiction to such extent as may seem desirable and giving another permanent Judge. This elasticity of the scheme is to my mind one of its chief recommendations. I need hardly remind any one conversant with the work of the Madras High Court in the last decade or two how extremely difficult it is to get an additional Judge appointed to the High Court by letters patent. Mr. Justice Innes' long and ineffectual struggle for the appointment of a fifth Puisne Judge must be well remembered in Madras; and, although in 1883 I had the advantage of entering into his labours, I might never have succeeded but for the fact of my having in 1886 become a Member of the Government and for a further happy concatenation of circumstances of which I was able to take advantage to overcome the very reasonable objections entertained by the Secretary of State.

"But now it may be asked—indeed it has been asked—even granted that the scheme is a good one, why press it at the present time? There is a fifth Puisne Judge at last, and if he is confirmed the High Court will probably be able to get through the work which will come before it for some years to come—why not get him confirmed and have done with it? The simple answer is that this puts the case on an entirely false issue. I am surprised and sorry to find this put forward as the only real issue in some of the newspapers which had no full knowledge of the facts; but I still more regret that the High Court itself, as constituted last September, should have ventured to say that 'the measure appears to have been designed with a purely financial object, simply and solely to relieve the High Court of a portion of its work, and thereby enable the Government to avoid appointing permanently a fifth Puisne Judge.' If this were the sole or even the main object in view, I should still think that the measure is one which deserves to be carried into effect, first, in order that we may ascertain whether after all the fifth Puisne Judge is really necessary; and, secondly, because in a few years' time we may have a sixth Judge proposed, and exactly the same trouble over again. But so far is this from being the main object in view that the Local Government in its last letter, while expressing 'a decided opinion that the present strength of the High Court will never admit of reduction,' is equally decided that the Bill is necessary in order to provide a tribunal both less expensive and less dilatory than a High Court.

"I may say, then, that the objects and reasons of this Bill are twofold. The first is to remove that 'practical denial of justice to a not insignificant portion of the inhabitants of the city' which the High Court admits to exist, and to be inevitable under the present system of judicial administration in the Presidency-town. And the second is to obviate the lamentable waste of judicial power involved in that system, which requires every petty dispute not technically a small cause to be fully investigated by so highly paid an officer as a Judge, or perhaps even a Chief Justice, of the High Court. This waste is more marked in Madras than in Bombay or Calcutta, because the litigation is pettier, and because the original jurisdiction of the Court extends over a far wider area, and one much less distinguishable from the outer Mufassal. It includes a large number of suburban hamlets, and there is no conceivable reason why a petty dispute arising in one of these hamlets should occupy the attention of a High Court Judge on Rs. 3,750 with all his paraphernalia when a similar dispute outside the toll-bar would be adequately dealt with by a Munsif drawing perhaps no more than Rs. 200.

"I say then that, quite apart from the question whether the fifth Puisne Judge should be retained permanently or not, there are the strongest possible reasons for amending the existing state of things in Madras. Even those Judges who deprecate the measure concede this much, for they distinctly 'approve' of the measure so far as its effect will be to create a cheaper *forum* for certain classes of actions which will not endure the expense entailed on suitors' in the High Court. It is true that they add a rider to the effect that the result of establishing such a tribunal will be to multiply suits to an extent which will astonish the Government; but, if their estimate turns out to be correct, what will it show? It will only prove that the present denial of justice is even more serious, and therefore that the measure which I am advocating is still more necessary, than had been supposed.

"I have seen it stated that the High Court has only recently been made aware what was really contemplated, and, as I have already mentioned, the Court itself has thought fit to denounce the measure as crude and ill-considered. It must, however, be remembered that three of the six Judges then on the Bench were officiating only, while the oldest and most experienced dissented from the majority. It must also be borne in mind that their remarks were directed to the original sketch which has since been modified in various material respects. I do not anticipate that the Court as now constituted will object to the Bill which I have placed on the table, and for that reason I abstain from any further criticism of its letter; but, all the same, it is right that I should show that the measure originated with the High Court itself, and has received from it, as well as from the Government, very ample consideration.

"When I had myself the honour of a seat among Their Lordships, I was greatly struck, coming as I did from the Mufassal and from a special enquiry with a view to reorganize the Mufassal Courts, by what I have ventured to describe as a lamentable waste of judicial power. The remedy which suggested itself to me is the very remedy which I now wish to apply. On submitting the matter to the Chief Justice, I learned that the same remedy had been suggested by Sir Walter Morgan and more than once urged by himself. I mention this partly because Sir Walter Morgan and Sir Charles Turner were specially remarkable among Chief Justices for their knowledge of the country and talent for organisation, and partly because it will help to explain a letter which Sir Charles Turner drafted embodying the Court's deliberate and unanimous proposals, and which I will now proceed to read so far as it is material. It is dated 27th February, 1885, and contains the following paragraphs:

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'7. A measure suggests itself which would at once effect this object, benefit suitors, and not injuriously affect the legal profession, *vis.*, that the Court of Small Causes at the Presidency-town should be invested with power to try as a Court of Original Jurisdiction all suits (of which it at present cannot take cognizance) except testamentary, matrimonial and maritime, arising within the local limits of the High Court, and not exceeding in value Rs. 2,000 or Rs. 2,500, subject to an appeal to the High Court.

'8. The exclusive jurisdiction of the High Court in certain classes of cases entails on poorer suitors expense altogether out of proportion to the benefit they derive from the presumed superiority of the forum. It not unfrequently happens that suits are instituted for the partition of immoveable property where the costs incurred exceed the value of the subject-matter. The same observation applies to other cases, such as maintenance, mortgage, inheritance and administration.

'9. In a suit for partition which recently came before the Court the value of the property was Rs. 169, subject to a mortgage for Rs. 100, which it was the object of the suit to avoid. The suit was instituted *in forma pauperis*, and no party was in a position to engage legal assistance. It frequently happens in a suit for maintenance that the rate awarded, or indeed claimed, does not exceed a few rupees *per mensem*. Yet it may be necessary to determine whether the plaintiff's husband was a divided member of the family, whether there was ancestral property, whether there were debts and to what amount, how many members have to be married and maintained, and whether the widow has forfeited her right by unchastity.

'10. In other cases, of which the High Court has not exclusive cognizance, suitors are compelled to resort to it if it is necessary to obtain the attachment of immoveable property before judgment.

'11. In view of the expenses entailed on the poorer classes of suitors, this High Court has admitted vakils to plead on the original side, so as to avoid the necessity for the employment of the higher-paid agency of attorneys and counsel; but it has been found impossible

to reduce court-fees without encouraging the institution of suits in the High Court which should be brought in the Court of Small Causes.

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'16. The appellate and supervisory work of the High Court is, and to all appearance will continue to be, sufficient to occupy the time of at least four Judges. The strain now experienced by the Court arises from the necessity of employing a second Judge in the disposal of business on the original side. The value of a suit is no certain criterion of the expense of judicial time occupied in its disposal, and it seems inexpedient to employ a highly-paid judiciary in the disposal of cases which, if they arose on the other side of a toll-bar, would be triable by a District Munsif.

'17. Meanwhile, the trial of suits which from their value or intricacy are properly cognizable by a High Court is retarded by the disposal of petty litigation of the nature above indicated.

'18. The strengthening of the Small Cause Court by the appointment of an additional Judge, who would possess the qualifications of a Subordinate Judge, on a salary of Rs. 1,200 or Rs. 1,500 per mensem, would, the Court believes, avoid the necessity for the appointment of an additional Judge of the High Court—at all events for a time. Whether it may not ultimately become necessary is a question upon which the Court cannot at present express a decided opinion; but, on all grounds, it appears desirable that the experiment now proposed should be made.

'19. If the scheme of the Court is accepted, it is believed that a reduction of the establishment of the High Court might set free some funds to provide for the establishment required by conferring on the Small Cause Court a new jurisdiction.

'20. It will be in the recollection of the Government that the proposal now made is not novel.

'21. It originated in a correspondence between the late Chief Justice and the Government between 1872—1877. It was more formally made in a minute by Mr. Justice Busteed (then Chief Judge of the Small Cause Court, but officiating in the High Court), which will be found in G. O., 11th March, 1879, No. 494, Judicial Department. It met with the approval of all the Judges then present in the Court of Mr. Justice Muthusami Aiyar (pp. 3, 4, 10—14), then in the Small Cause Court, and of Sir Walter Morgan (pp. 14—16).

'22. The present Chief Justice has more than once pressed its adoption on the Government—G.O.s, 27th May, 1879, No. 1247, and 8th October, 1880, No. 2425, Judicial Department.

'23. The Government of Madras recommended the measure and deprecated the rejection of the proposal when the Small Cause Court Act was under amendment—G. O.s, 2nd November, 1880, Nos. 2623 and 2524, Judicial Department.

'24. The Court was not informed of the grounds on which the Government of India regarded the proposal as inexpedient. The only objection which was mentioned to the Chief Justice by Mr. Stokes was that he doubted whether the same Judge could, with equal efficiency, exercise Small Cause Court and ordinary jurisdictions. The Court is not without experience that this objection is untenable. For some years the Subordinate Judges and Munsifs in this Presidency have exercised both jurisdictions, and the Court has not seen any reason to think that the exercise of the one has prejudiced the exercise of the other.

'25. It is believed that the objections proceeded from other High Courts. If this be so, it is suggested that an Act should be passed empowering the Local Government to confer the jurisdiction on the Small Cause Court in this city, and that its working should be first tested in Madras.

"This letter shows, among other things, that the proposals emanated from the High Court, and were unanimously approved by all the Judges in 1879, and again by another set of Judges in 1885. They were further referred to as having been deliberately adopted in a letter dated 3rd March, 1887—after a sketch Bill had been submitted to the Chief Justice by the Hon'ble Mr. Ilbert—and in another letter written by the Registrar as recently as 12th November, 1889; and, notwithstanding what was written last September, I believe that as now formulated they will again be generally approved by the full Court. The Local Government has throughout given the measure its warm support. I may refer to, but I will not stop to quote, its letters dated 14th May, 1887, 21st December of the same year, 2nd June, 1888, and 16th March, 1889. In the last letter His Excellency in Council urged the importance of expediting the measures required to effect the transfer, as otherwise 'even six Judges may not be able to keep down the arrears without relief.'

"Lastly, in order that we might be quite sure that we were not going beyond what was locally recognized to be desirable, before laying the matter before the Secretary of State we took the precaution of asking for the views of the mercantile community. The members of the Trades Association were 'unanimously of



opinion that the change proposed would afford great relief to the High Court, and be beneficial and a great convenience to suitors.' The Chamber of Commerce approved of the proposals, 'provided the services of the sixth Judge are not dispensed with until it is satisfactorily established that the relief afforded by the proposed change will reduce the work of the High Court to dimensions that can be efficiently dealt with by a smaller number of Judges than six.' As to this proviso, I have only to say that both the Government of India and the Local Government recognize their obligation to provide a sufficient staff of Judges, and there is no intention whatever to dispense with the sixth Judge, *i.e.*, the fifth Puisne Judge, unless it should turn out that he is not required. Whether he will be required or not it is more than I or any one else can assert with any degree of confidence. All that I am inclined to insist on is that a single Judge ought to be able to dispose of all the important original work of the Presidency-town, and this would leave all the other Judges free for the undoubtedly heavy appellate business.

"My Lord, I am not in the habit of noticing attacks by anonymous contributors to newspapers; but, as I have been more than once lately denounced by name in connection with this measure as an insidious enemy of Madras, and of the High Court and the sixth Judge in particular, I may perhaps be permitted to take this opportunity to mention that this Bill merely embodies proposals which I made when I was myself in the High Court and expected to remain there, and that the present existence of a sixth Judge is more due to my own personal efforts, undertaken after I had quitted the Court, than to anything else I am aware of. All that can truly be laid to my charge is that I do not regard the original civil jurisdiction of the High Court as a fetish which it would be sacrilegious to interfere with in the smallest degree, and that I consider that the interests of the Bar must give way when they come into conflict with the interests of the suitor and the public tax-payer. The Bar, however, is but slightly affected by the Bill now in question, as may be gathered from the letter of 1885 which I have quoted almost in full. All the pettier suits of the original side are already conducted by vakils, and by far the best paying work is connected with Mufassal litigation. In this respect, as well as in other local peculiarities which I have already mentioned, Madras differs essentially from Calcutta and Bombay. Many good authorities are of opinion that some similar measure of reform is demanded for the other Presidency-towns also, but Madras has advantages which enable her to take the lead. Whether her sisters will be inclined to follow when they see how easily the proposed transfer of jurisdiction can be effected, and the good results which follow, is a question which we may well leave it to time to solve.

"My Lord, there are yet two objections with which I ought to deal before I bring this long speech to an end. The first is that the addition of this new business will make the Court of Small Causes less efficient for the primary purpose for which it was created, namely, the summary recovery of simple debts. The High Court's letter of 1885 dismissed this difficulty as untenable by showing that almost every Court in the Madras Presidency has its two sides for the disposal of regular suits and small causes respectively, and that no practical inconvenience has resulted. The only fact brought forward to show that the summary work may have been delayed is that the average duration of a small cause suit in the Presidency Court is less by ten days than the similar average for all the Mufassal Courts. Those who made this comparison appear to have overlooked the wide extent of the territorial jurisdiction possessed by Mufassal Courts. It will often take much more than ten days to get a summons served on a defendant and returned to the Court, and reasonable time must of course be allowed to a distant party to put in an appearance. Besides, in the Mufassal there is but one Judge for both sides of the Court, and the rule is for him to take only two days in each week for small causes. In the Presidency Court the two sides will be absolutely and entirely distinct, and the only outward and visible signs that the regular side is part of the Small Cause Court will be, first, that it will be styled 'the Court of Small Causes, Regular Side,' and, secondly, that the presiding Judge will be one or other of the Judges appointed to the Small Cause Court. I have already dwelt on the advantages of such an elastic arrangement. The Chief Justice of the High Court does not appear to have any difficulty in deciding how many or which Judges should be deputed to the original side or the appellate side, as the case may be, or in determining their relative claims to consideration from time to time. The two sides of the Small Cause Court will be every whit as distinct,

and the Chief Judge will have exactly the same power to make arrangements. As to the efficiency of the Judges, I need only point out that, supposing their number to be four or five, two must be Advocates of the High Court, while the others have hitherto been the pick of the Subordinate Judges, as good a body of judicial officers as can be found anywhere.

"Lastly, it has been urged that the work of the High Court will not really be decreased, because, if it is saved original trials, it will get more appeals. The weighty authority of Sir Henry Maine has been called in aid of this objection, but after all his arguments are either *à priori*, or at all events they do not take into account the actual facts at Madras. We will suppose 200 suits to be transferred, and that appealable decrees are passed in 100. The average percentage of appeals from appealable decrees of the Mufassal Courts is 12, but we will allow 20. Now, bearing in mind that what takes up most time in Court is the recording of evidence, and that the record is complete before an appeal comes on for hearing, about 6 appeals may be heard in the time which 1 original suit will occupy. We will, however, reduce this number to 4 only. Thus, 20 appeals would take as long as 5 original suits. This is just one-twentieth of the business which I have supposed to be transferred without making any allowance for the interlocutory work connected with the other 100 suits not disposed of on the merits. I have not lost sight of the fact that two Judges sit together on an Appellate Bench, but I set it against another fact, *vis.*, that at least 10 per cent. of the appealable decrees passed by High Court Judges are already appealed.

"I regret, My Lord, that I have encroached so much on the time of this Hon'ble Council, but the matter is one on which the public of Madras is naturally interested, and on which it has not hitherto enjoyed full information. I trust I have now succeeded in making it sufficiently clear, and at all events that I shall no longer be suspected of entertaining any insidious designs to their disadvantage."

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS also introduced the Bill.

The Hon'ble SIR PHILIP HUTCHINS also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Fort St. George Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

#### INDIAN CHRISTIAN MARRIAGE ACT, 1872, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to validate certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872, which was introduced and ordered to be published at the last Meeting of the Council, be referred to a Select Committee consisting of the Hon'ble Sir Philip Hutchins, the Hon'ble Mr. Rattigan and the Mover.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 6th August, 1891.

S. HARVEY JAMES,

SIMLA;  
The 24th July, 1891.

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Secretary to the Government of India,  
Legislative Department.



# The Gazette of India.

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The Council met at Viceregal Lodge, Simla, on Thursday, the 6th August, 1891.

### PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G.,  
G.M.S.I., G.M.I.E., *presiding*.

His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.

His Excellency the Commander-in-Chief, BART., V.C., G.C.B., G.C.I.E., R.A.

The Hon'ble Sir P. P. Hutchins, K.C.S.I.

The Hon'ble Sir D. M. Barbour, K.C.S.I.

The Hon'ble Sir A. E. Miller, Kt., Q.C.

The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.

The Hon'ble Colonel R. C. B. Pemberton, R.E.

### INDIAN MERCHANT SHIPPING ACT, 1880, AMENDMENT BILL.

The Hon'ble SIR DAVID BARBOUR presented the Report of the Select Committee on the Bill to amend the Indian Merchant Shipping Act, 1880.

### MADRAS SMALL CAUSE COURT BILL.

The Hon'ble SIR PHILIP HUTCHINS moved that the Bill to extend the jurisdiction of the Court of Small Causes of Madras be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Mr. Rattigan and the Mover.

The Motion was put and agreed to.

### PUNJAB MUNICIPAL BILL.

The Hon'ble SIR PHILIP HUTCHINS also moved for leave to introduce a Bill to make better provision for the administration of Municipalities in the Punjab. He said:—

"As the hon'ble member (Mr. Rattigan) whom Your Excellency has lately appointed to represent the Punjab has not yet taken his seat, it devolves upon me to move for leave to introduce this Bill.

"The law which at present governs the municipalities of the Punjab was enacted in 1884 at a time when a general extension of local self-government was taking place throughout India. It was therefore naturally framed upon a far more elaborate and ambitious model than the former Municipal Act of 1873. The older law was not indeed at that time expressly repealed except in regard to those municipalities to which the new law was specifically extended. But the practical inconvenience of two independent municipal systems in one Province was too great for continuance. The Act of 1884 was speedily extended to all the municipalities then in existence, while no new municipality was ever constituted under the Act of 1873. The latter Act thus fell into complete desuetude; but it was only finally repealed a few months ago by the Obsolete Enactments Act, No. XII of the present year.

"Since August, 1884, therefore, Act No. XIII of 1884 has been in practice the sole municipal law of the Punjab, and an experience of six years has discovered some faults in its operation and some deficiencies in its provisions. Both the faults and the deficiencies are probably due to the very great difference of condition which exists among the various municipalities of the Punjab, and to the extreme difficulty of framing any single enactment which shall be appropriately fitted to the various circumstances of them all. On the one hand, there are large and growing commercial centres, such as Amritsar and Delhi, with a great and intelligent population, with adequate resources, and with large and growing municipal wants and requirements. On the other hand, there are numerous country-towns with a small population which hardly affords material for a municipal administration even of the simplest description. These towns have practically no conception of municipal life on a large scale. Their resources are narrow, and their wishes correspond with their powers. Lastly, apart from both these classes are the various hill-stations, peculiar in their physical situation, the character and habits of their population and the special needs and expectations which follow from these peculiarities.

"Even this enumeration by no means exhausts the differences of condition among the Punjab municipalities, but it sufficiently indicates the difficulties of the case. To some extent these difficulties are recognised in the existing Act by the division of municipalities into two classes, and by the power given to except individual municipalities from the operation of particular provisions of the law. But these arrangements, though salutary in themselves, are insufficient and often hard to apply in practice. The fact remains that there is at present no adequate method by which municipal committees can deal with many matters which either now require, or may shortly require, regulation in the more highly civilized communities, as well as at the hill-stations. At the same time, on the other hand, the apparatus of administration is unnecessarily cumbrous for the smaller towns, and there is naturally some reluctance to bring under so elaborate a system those small townships which are not at present municipalities but in which it is desirable to provide at least some measures of rudimentary sanitation and perhaps also some arrangement for local watch and ward.

"Acting upon these considerations the Punjab Government resolved to undertake an amendment of the municipal law. Their proposals were embodied in a draft Bill recently submitted to the Government of India. Almost everything that is new in the Bill which I am about to ask leave to introduce is taken from this draft or from supplementary suggestions made subsequently by the Local Government. But if the Bill had been passed merely as an amending Act the result would have been to spread the municipal law of the Province over two separate enactments, and this seemed an undesirable arrangement in regard to municipalities in which the law has to be administered by men who have often no legal training and for whom it is therefore expedient to supply a single enactment in as lucid and compact a form as possible. It has therefore been decided (with the full assent of my hon'ble friend the Lieutenant-Governor of the Punjab) to repeal the existing Municipal Act and to re-enact it with the alterations and additions recommended in the original draft amending Bill. This decision has swollen the Bill now in my hands to very formidable dimensions. But, though rather alarming to look at, it in reality consists for the most part of what is already law and has been law since 1884. What is new is of no great compass, involves no large matter of principle, and merely deals with a number of details of municipal administration. Some

of these details have a certain amount of importance, while others are more or less insignificant. I will not weary the Council with a detailed enumeration of the changes which have been made or of the reasons for them. Both will be found fully set out in the Statement of Objects and Reasons annexed to the Bill. But I think that all the new proposals can be conveniently distributed into three groups, and it will perhaps be desirable for me to indicate the character of each group and of the more important items comprised in it.

"In the first place, there are a number of sections which grant new or enlarged powers to committees or in connexion with municipal administration. Some of these are expressly confined to municipalities at hill-stations. Such are the powers to make rules to license porters and hired horses given by section 145. Other powers—such as those given by section 93 for the regulation of building—though not expressly confined to hill-stations, are not likely in practice to be applied elsewhere. The remaining important sections of this type are those which give increased power of control over petroleum and similar inflammable materials (105 and 120), that which gives power to regulate by rule the places in which food and drink may be manufactured for sale or sold (137), those which endeavour to reduce the danger from the malignant diseases of cholera and small-pox (140-143), those which provide for the establishment of fire-brigades (Chapter VIII), and lastly the section which provides for the control of houses of ill-fame (203). In all the more important of these matters the committees will exercise their powers under somewhat strict control from Government, and additional precautions are provided in two ways in regard to all matters which appear to involve any interference with individual habits or industry. In the first place, the various sections will not operate in any municipality unless specially extended thereto, and, in the second place, no such extension will be possible unless specially applied for by the committee. There seems therefore no ground for apprehension either that the committees will abuse their powers or that measures of advanced administration will be thrust upon an unwilling population without its own consent. I may mention that the provision for the control of houses of ill-fame was inserted in the Bill by the Local Government in compliance with the prayer of a petition from Lahore bearing numerous and influential signatures.

"The second group of amendments to which I would refer comprises all those sections which attempt to make municipal administration in general less cumbersome and more efficient. It would be tedious to enumerate these, and were I to attempt the task I could do little more than recapitulate the Statement of Objects and Reasons. Among them will be found provisions to facilitate the change from an appointed to an elected or from an elected to an appointed committee. There are also provisions for decentralizing the administration of the smaller municipalities by delegating some of the functions of the Local Government in regard to them to Commissioners. Other sections of the Bill are intended to simplify the imposition and remission of taxation, and to make better provision for appeals against assessments. The provisions of the existing law as to house-scavenging (which have proved unworkable in practice) have also been thoroughly reformed. Larger powers of control have been given over certain classes of municipal servants. And, lastly, power has been taken to compound offences against municipal byelaws and to make prosecutions for such offences much simpler and more speedy than under the present law.

"The third and last group of changes is that contained in the last chapter of the Bill. There are a good many places in the Punjab, of which Kalka may be mentioned as a good instance and one familiar to hon'ble members, which are clearly not fitted for municipal government, but which nevertheless require some adequate arrangements for conservancy or for police or for both. At present such townships can only be dealt with under Act No. XX of 1856, which is an inconvenient, and in some respects an obsolete, enactment. Chapter XI of the present Bill endeavours to supply a simple regulation for places of this description. Under its provisions it will be possible in several small towns to provide at least some rudimentary measure of public cleanliness, and in process of time, as resources develop, such towns may be gradually elevated to full municipal rank.



"The remaining changes introduced by the Bill are not of much importance. They deal mainly with elucidations of doubtful points in the present law, or with the regulation of minor practical details. I do not think I need detain the Council with any account of these."

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS also introduced the Bill.

The Hon'ble SIR PHILIP HUTCHINS also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Punjab Government Gazette in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 20th August, 1891.

S. HARVEY JAMES,

SIMLA;

The 7th August, 1891. }

Secretary to the Government of India,

Legislative Department.



# The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 22, 1891.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART VI.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT, 24 & 25 VICT., CAP. 67.

The Council met at Viceregal Lodge, Simla, on Thursday, the 20th August, 1891.

### PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G.,  
G.M.S.I., G.M.I.E., *presiding*.  
His Excellency the Commander-in-Chief, BART., V.C., G.C.B., G.C.I.E., R.A.  
The Hon'ble Sir P. P. Hutchins, K.C.S.I.  
The Hon'ble Sir D. M. Barbour, K.C.S.I.  
The Hon'ble Sir A. E. Miller, KT., Q.C.  
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.  
The Hon'ble Colonel R. C. B. Pemberton, R.E.

### INDIAN MERCHANT SHIPPING ACT, 1880, AMENDMENT (DECK AND LOAD-LINES) BILL.

The Hon'ble SIR DAVID BARBOUR moved that the Report of the Select Committee on the Bill to amend the Indian Merchant Shipping Act, 1880, be taken into consideration. He said:

"It will be recollected that, when introducing this Bill on 19th December last, I pointed out that its object was to assimilate the Indian to the English law in regard to maximum load-lines, and that it had been rendered necessary by the changes in the English law made by the English Merchant Shipping Act of 1890.

"As the questions dealt with in the Bill were of a highly technical character, a copy of the Bill as introduced in December last was forwarded through the Secretary of State for India to the Board of Trade for examination and for any suggestions for the amendment of the Bill which the Board might wish to make.

"The Board of Trade has no objection to the Bill as introduced, and makes no suggestion for its amendment. There is no higher authority on this subject than the Board of Trade, and it is therefore not necessary for me to do more at the present time than briefly explain the chief modifications which the Select Committee now suggests.

"In the Bill as amended by the Select Committee it is provided that Colonial marks relating to deck and load-lines which are recognized in England shall also be recognized in India, and that foreign ships shall be brought under the operation of the law, as they are in England, unless the countries to which they belong have laws on the subject of deck and load-lines which are recognized as equally effective with the English or Indian law. In both these respects the Select Committee merely proposes to follow the English law and practice.

"The Select Committee recommends that power be given to Local Governments to exempt Native craft not square-rigged from the operation of the law; even the existing rules under Act VII of 1880 as regards the marking of vessels have not been applied to vessels of this class, and the English deck and load-line law as altered in 1890 cannot fairly be made applicable to them. Power is also given to make rules, with the previous sanction of the Governor General in Council, for the definition of fair and foul seasons and for the modification of the tables of free board in the case of any class or classes of vessels. It is intended by this provision to enable Government to deal from time to time with vessels in the coasting or purely Eastern trade to which the rules of the Board of Trade cannot be applied in their full integrity."

The Motion was put and agreed to.

The Hon'ble SIR DAVID BARBOUR also moved that the Bill as amended be passed.

The Motion was put and agreed to.

#### PUNJAB MUNICIPAL BILL.

The Hon'ble SIR PHILIP HUTCHINS moved that the Bill to make better provision for the Administration of Municipalities in the Punjab be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Mr. Rattigan and the Mover, with instructions to report within one month.

The Motion was put and agreed to.

#### LOWER BURMA MUNICIPAL BILL.

The Hon'ble SIR PHILIP HUTCHINS also moved for leave to introduce a Bill to amend the Lower Burma Municipal Act, 1884. He said:

"A fortnight ago I had the honour of bringing before this Council a Bill revising the Municipal Law now in force in the Punjab. I have now to ask leave to introduce a Bill to amend in some few respects the Lower Burma Municipal Act of 1884. The former was a lengthy measure comprising upwards of two hundred sections; the Bill which I now hold in my hand contains five sections only. The Punjab too is our westernmost province, and is probably not more remote from Burma in situation than it is divergent from it in manners and customs, in social habits and municipal requirements. Nevertheless these two measures have a good deal in common, and, with Your Excellency's permission, I shall presently move that they be referred to the same Select Committee. I shall also, in the Home Department, draw the special attention of the Chief Commissioner of Burma to the sections in the Punjab Bill corresponding with those in the Bill which he has prepared for his own province, and ask him to consider whether they may not be more closely assimilated.

"The principal sections in the Bill which I am about to place on the table are the first and the last two, which may be taken together. In 1888 the Municipal Committee of Rangoon introduced into the town the hydro-pneumatic system of drainage by gravitating sewers which is known as the Shone system. A portion of the works was opened in this month of August two years ago, and the whole system was completed in April, 1890. It has been in working order for a considerable time in part of the town, but the Municipality have not been able to discard even in that part the old and highly insanitary and objectionable method of removing fæcal matter by carts, because many of the inhabitants have neglected to connect their houses with the sewers. Consequently the

Municipality have to maintain two systems of night conservancy at a heavy cost. In order to compel house-owners to establish the necessary connections, one of them was prosecuted under section 115 of the Municipal Act for allowing offensive matter to flow or be put into a drain not set apart by the committee for that purpose. He was convicted, but the learned Recorder of Rangoon has quashed the conviction on three grounds, namely—(1) that the Act gives no power to compel house-owners to make such connections; (2) that, even if it did, the committee could not compel them to trespass on intervening Government land in order to effect the connections; and (3) that under section 115 only the person who has actually permitted the sewage to flow where it should not is liable to prosecution. Sections 1, 4 and 5 of my Bill have been framed to meet these several objections. It is evidently of vital importance, alike to the health of the town and to the financial position of the Municipality, that the necessary connections should be completed as early as possible, and I cannot anticipate that there will be any objection to this, which I have described as the main, portion of the measure.

"Although these amendments are intended primarily for Rangoon, yet, as they only add to without otherwise changing the Act of 1884, they will be made applicable to the whole of Lower Burma. Their effect is merely to give to a municipal committee the same amount of control over sewage-works and their appurtenances which they already possess over drainage-works, privies and cess-pools, and also the power of compelling the construction of proper drains. Such control and such power ought to be vested in every municipal committee.

"The second section of the Bill will authorize all municipal committees in Lower Burma to tax vehicles and animals entering the Municipality. I think such taxation is specially permitted by almost every other Municipal Act in force in any part of India. It could be imposed even in Burma in any particular Municipality with the previous sanction of Your Excellency in Council, but there is no real reason for requiring such special sanction in every case in which a tax of this ordinary character seems desirable. At present vehicles and animals are only liable to be taxed when they are kept within municipal limits, and the liability is frequently evaded by sending them to stables just outside those limits.

"The third and only remaining section of the Bill has been framed with a view of giving greater control over the erection of buildings on land belonging to Government or to a Municipality. The existing section for which it provides a substitute was copied from section 88 of the Punjab Act—a section which it has been proposed to alter very materially even for the Punjab by the Bill introduced at the last sifting of Council. In Rangoon there is much waste land unreclaimed from swamp and not at all fit for occupation by human habitations. There is also a good deal of ground belonging to Government which charges rent for the privilege of building. It seems that the more ignorant classes regard a municipal permit to build as equivalent to a grant of the site. The less scrupulous run up such wooden houses as are common in Burma without the knowledge of the revenue-officers, and it is impossible to eject them without a regular suit. The Chief Commissioner expects that the new section will obviate much misunderstanding and inconvenience, but, as I have already stated, I shall ask him to compare its provisions very carefully with those which it is proposed to insert in the Punjab enactment."

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS also introduced the Bill.

The Hon'ble SIR PHILIP HUTCHINS also moved that the Bill and Statement of Objects and Reasons be published in the *Gazette of India* in English, and in the *Burma Gazette* in English and in such other languages as the Local Administration thinks fit.

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS also applied to His Excellency the President to suspend the Rules for the Conduct of Business to enable him to move for the appointment of a Select Committee to consider the Bill. This, he

explained, would save a special meeting of Council being called for this merely formal purpose.

THE PRESIDENT declared the Rules suspended.

The Hon'ble SIR PHILIP HUTCHINS then moved that the Bill be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Mr. Rattigan and the Mover, with instructions to report within one month.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 10th September, 1891.

S. HARVEY JAMES,

SIMLA;

The 21st August, 1891. }

Secretary to the Government of India,

Legislative Department.





# The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, SEPTEMBER 19, 1891.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART VI.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT, 24 & 25 VICT., CAP. 67.

The Council met at Viceregal Lodge, Simla, on Thursday, the 17th September,  
1891.

### PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G.,  
G.M.S.I., G.M.I.E., *presiding*.

His Excellency the Commander-in-Chief, BART., V.C., G.C.B., G.C.I.E., R.A.

The Hon'ble Sir P. P. Hutchins, K.C.S.I.

The Hon'ble Sir D. M. Barbour, K.C.S.I.,

The Hon'ble Sir A. E. Miller, KT., Q.C.

The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.

The Hon'ble Colonel R. C. B. Pemberton, R.E.

The Hon'ble W. H. Rattigan, M.A., LL.D.

### BANKERS' BOOKS EVIDENCE BILL.

The Hon'ble SIR ALEXANDER MILLER presented the Report of the  
Select Committee on the Bill to amend the Law of Evidence with respect to  
Bankers' Books. He said:—

"The Select Committee have made several considerable changes in detail, but  
none which, I think, affect the principle of the Bill, or which would require further  
consideration or republication. The alterations are briefly these. Instead  
of the elaborate machinery proposed in the Bill, in which it is to be proved  
by a system of affidavits that the books were examined and the extracts verified,  
we propose to introduce a system of certified copies, exactly analogous to that  
in the present law in respect to certified copies of public documents, and we do  
not propose to permit any evidence to be given otherwise than by the production

of the books themselves, or by certified copies. We were asked to extend the Act to all kinds of mercantile concerns, but that was not thought desirable. We have omitted all reference to Government Savings Banks and to the Post Office, because we think that the books of these bodies are 'public documents' within the meaning of the Evidence Act. We have, however, introduced a clause enabling the Local Government in any case to extend the provisions of the Act to the books of any company which keeps a regular set of books analogous to the recognized bankers' books and to which the Local Government may consider it desirable to extend them. We have also introduced provisions enabling the bank, if it thinks fit, to offer to produce certified copies instead of allowing its books to be examined. We thought there might be very good reasons for this course, and that in the interests of the bank or its clients the clause which proposed to enable any party to obtain authority to look through the books of the bank was undesirable without this modification. Instead therefore of this being done, we propose that the bank may offer to give copies of the necessary certificates. There is one point in connection with this matter, which is that we propose, in that case, that the bank should have to certify that it has given all the relevant entries. One of the District Judges has made a note to the effect that it is impossible for a bank to judge what entries are, or are not, relevant. The answer is that the bank is not bound to take advantage of this provision. If for the purpose of concealing its accounts it chooses to take advantage of it and does not insert all relevant entries, it must act on its own responsibility and at its own risk.

"We have inserted no clause with reference to the payment of any fee to a bank for the supply of certified copies, but we have given a discretionary power to the Court, where the matter comes before it, to award costs to or against the bank as it may think just; and the reason is that we think that in most cases it would be more beneficial to the bank to give these certificates free of cost than to have their books produced, and possibly detained for days, or even weeks, for purposes of legal proceedings; but if in any case the bank does not choose to grant these certified copies without payment the party will have it in his own power either to pay what the bank asks, or to go before the Court and get an order. Probably in many cases an agreement with the bank would be come to in preference to going before the Court, but if the matter does go before the Court, then we give the Court complete power to make any order which it thinks proper as to costs for or against the bank.

"The Bill does not contain any express power to the Court to require the production of the books, instead of acting on the certified copies. I think this power is given incidentally, because we say that these certified copies shall be received as *prima facie* evidence, of the existence of the entries, and also that no officer of a bank shall in any proceedings to which the bank is not a party be compelled to produce the books without special order; but I am not quite sure that it may not be desirable to insert a clause to the effect that notwithstanding anything in the Act the Court may order the production of the books themselves whenever it thinks this necessary.

"I do not think there is anything else which calls for remark."

#### PUNJAB MUNICIPAL BILL.

The Hon'ble MR. RATTIGAN moved that the presentation of the Report of the Select Committee on the Bill to make better provision for the administration of Municipalities in the Punjab be postponed till the next meeting of Council. He regretted that it had not been found possible to present the Report of the Select Committee at the present meeting. A large number of opinions had been received only very recently, and owing also to the pressure of other business the members of the Select Committee had not been able to meet up to the present time. The Committee would, however, begin its meetings

to-morrow, and he thought he could undertake that the Report would be placed upon the table at the next meeting of the Council.

The Motion was put and agreed to.

#### LOWER BURMA MUNICIPAL ACT, 1884, AMENDMENT BILL.

The Hon'ble SIR PHILIP HUTCHINS moved that the presentation of the Report of the Select Committee on the Bill to amend the Lower Burma Municipal Act, 1884, be also postponed till the next meeting of Council. He said that when he introduced the Bill he explained that, as far as it went, it had a great deal in common with the Punjab Bill; the two Bills had been referred to the same Committee, and he thought it desirable that they should be dealt with together.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 1st October, 1891.

L. PORTER,

SIMLA;

The 18th September, 1891.)

Offg. Secretary to the Government of India,

Legislative Department.

*Note.*—The Meeting fixed for the 10th September, 1891, was subsequently postponed to the 17th idem.



# The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 3, 1891.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART VI.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT, 24 & 25 VICT., CAP. 67.

The Council met at Viceregal Lodge, Simla, on Thursday, the 1st October,  
1891.

### PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G.,  
G.M.S.I., G.M.I.E., *presiding*.  
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.  
His Excellency the Commander-in-Chief, BART., V.C., G.C.B., G.C.I.E., R.A.  
The Hon'ble Sir P. P. Hutchins, K.C.S.I.  
The Hon'ble Sir D. M. Barbour, K.C.S.I.  
The Hon'ble Sir A. E. Miller, Kt., Q.C.  
The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.  
The Hon'ble Colonel R. C. B. Pemberton, R.E.  
The Hon'ble W. H. Rattigan, M.A., LL.D.

### BANKERS' BOOKS EVIDENCE BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Report of the  
Select Committee on the Bill to amend the Law of Evidence with respect to  
Bankers' Books be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill, as  
amended, be passed.

The Motion was put and agreed to.

### PUNJAB MUNICIPAL BILL.

The Hon'ble MR. RATTIGAN presented the Report of the Select Com-  
mittee on the Bill to make better provision for the administration of Muni-  
cipalities in the Punjab.

He said that, following the practice which he believed prevailed on such  
occasions, he proposed to reserve any remarks which he would have to make  
upon the Bill itself till the next meeting of the Council, when, with His Excel-  
lency the President's permission, he hoped to move for the Bill to be taken into  
consideration.

### LOWER BURMA MUNICIPAL ACT, 1884, AMENDMENT BILL.

The Hon'ble SIR PHILIP HUTCHINS presented the Report of the Select Committee on the Bill to amend the Lower Burma Municipal Act, 1884. He said:

"I shall ask at the next meeting of Council that this Bill be taken into consideration and passed, and I propose to reserve till then such observations as I have to make on the Bill as it stands. I think, however, that I ought to give notice of two amendments that I shall probably have to move.

"One of them is purely formal. The proviso to sub-section (3) of the last section of the Bill applies equally to sub-section (4), which is dependent on sub-section (3), and this ought to be expressed.

"I shall also in all probability have to move for the addition to the Bill of those clauses in the Bill in charge of my hon'ble friend Mr. Rattigan which are designed to prevent strikes or desertion of their duties on the part of sweepers, as well as of other classes of municipal servants, the due performance of whose functions is essential to the public health or safety. The necessity for some such provision has been brought home to me by a telegram which has just arrived from the Chief Commissioner of Burma reporting that the sweepers employed by the Rangoon Municipality have struck work and that serious consequences are anticipated."

### UPPER BURMA LAWS ACT, 1886, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to amend the Upper Burma Laws Act, 1886. He said:

"It appears that certain duties of certain officers were defined by the Upper Burma Village Regulation, 1887, and that under that Regulation their position is that of a petty Magistrate, whereas under the Burma Laws Act, 1886, they seem to be treated as Police-officers. They are subjected to a good deal of petty annoyance in consequence, and it is desirable to remove the cause of it."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill, and moved that it be taken into consideration. He explained that the Bill consisted practically of a single section, and simply repealed the section of the Burma Laws Act which he had just mentioned.

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill be passed.

The Motion was put and agreed to.

### INLAND EMIGRATION ACT, 1882, EXTENSION BILL.

The Hon'ble SIR PHILIP HUTCHINS moved for leave to introduce a Bill to provide for the extension of the Inland Emigration Act, 1882. He said:

"The reasons which have induced me to bring forward this measure are set out in the Statement of Objects and Reasons attached to the Bill.

"It is very desirable to open up a further field for the supply of coolie labour in the interest not only of the districts requiring the labour, but also of the immigrants themselves; and it is believed that such a field can be found to advantage in the Central Provinces. The Chief Commissioner has agreed to the Act being extended to his territory.

"In the Madras Presidency labourers for Assam are even now recruited under a local Act in the districts of Ganjam and Vizagapatam, and some two years ago the Local Government expressed a wish for legislation which will admit of Act I of 1882 being put into force in suitable portions of that Presidency.

"It is not possible to extend the Act at once to all parts of the Presidency of Madras, because it would be in conflict with a local Act which prohibits the recruiting of Madrasis except under its own provisions. And it is not likely that the Imperial Statute will be applied beyond the limits of those two districts



from which emigration to Assam even now takes place. In these circumstances it seems best to allow the Local Government to apply the Act to such localities as they think fit, and at the same time they will probably repeal their local enactment so far as those areas are concerned.

"Such other observations as I have to make upon the Bill I will reserve till the next meeting of the Council, when I hope to move that it be taken into consideration and passed."

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS also introduced the Bill.

The Hon'ble SIR PHILIP HUTCHINS also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India, the Fort St. George Gazette, and the Central Provinces Gazette in English.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 8th October, 1891.

L. PORTER,

SIMLA; } Offg. Secretary to the Government of India,  
The 2nd October, 1891. } Legislative Department.



# The Gazette of India.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART VI.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR  
GENERAL OF INDIA ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS UNDER THE PROVISIONS OF  
THE ACT OF PARLIAMENT, 24 & 25 VICT., CAP. 67.

The Council met at Viceregal Lodge, Simla, on Thursday, the 8th October,  
1891.

### PRESENT:

His Excellency the Viceroy and Governor General of India, G.C.M.G.,  
G.M.S.I., G.M.I.E., *presiding*.

His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.

His Excellency the Commander-in-Chief, BART., V.C., G.C.B., G.C.I.E., R.A.

The Hon'ble Sir P. P. Hutchins, K.C.S.I.

The Hon'ble Sir D. M. Barbour, K.C.S.I.

The Hon'ble Sir A. E. Miller, Kt., Q.C.

The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.

The Hon'ble Colonel R. C. B. Pemberton, R.E.

The Hon'ble W. H. Rattigan, M.A., LL.D.

### PUNJAB MUNICIPAL BILL.

The Hon'ble MR. RATTIGAN moved that the Report of the Select Committee on the Bill to make better provision for the administration of Municipalities in the Punjab be taken into consideration. He said:

"I do not think there is any need for me to enter at any length into the past history of legislation on this important subject. The whole circumstances which had rendered fresh legislation necessary were fully explained by my hon'ble friend, Sir Philip Hutchins, who acted as sponsor for the Bill on the occasion when it was introduced, and so short a time has since elapsed that it is quite unnecessary for me to follow him upon those points.

"But as the Member who more particularly represents the province that will be affected by the Bill, if it becomes law, I would desire, with Your Excellency's permission, to make the following observations, which will, I hope, serve to explain the general scope and character of the alterations which the present Bill makes in the existing law regulating municipalities in the Punjab.

"In order, however, to make Hon'ble Members more readily comprehend these alterations, it will be necessary for me to refer here to the defects of the existing law, though I shall endeavour to do so as briefly as possible.

"That law, as Hon'ble Members are aware, is embodied in Act XIII of 1884. But this enactment, although intended to make better provision for the organisation and administration of Municipalities in the Punjab, did not by express words repeal the former Act IV of 1873, which was allowed to prolong an obsolete existence for nearly seven years, until Act XII of 1891 acted the part of its executioner and finally caused its formal removal, along with much other 'dead matter,' from the Indian statute-book by the painless process of a statutory extinction.

"An experience extending over the same period has, however, proved that the Act of 1884, which superseded that of 1873, is itself not fully adapted to meet all the widely different requirements of municipalities in this province. These bodies are found to vary largely in type, representing communities no larger than good sized villages and capital cities, once the seat of empire, like Delhi and Lahore,

'whose game was empires, and whose stakes were thrones'.

"They differ naturally in all the main elements of their constitution, in their capacity for local government, in their special needs and resources, and in certain other marked local conditions; and no law regulating their proceedings and powers can be effectively applied which is not distinguished by great clearness of language and extreme simplicity of procedure, as well as by a judicious mixture of definiteness in principle with elasticity in details. The framers of Act XIII of 1884 were by no means unmindful of these peculiarities of municipal administration in a large province like the Punjab, the people of which are far more educated and advanced in some parts than in others, and an attempt was made to meet the difficulty by dividing municipalities into two broad classes, and by giving the Local Government the power to except any municipality from any of the provisions of the Act if they were deemed unsuitable thereto. But even with these devices the current of municipal administration has not been found to run smoothly, while there are a number of small towns in which it is desirable to introduce some regulations for sanitary and other purposes, affecting the comfort, health and safety of the inhabitants, but in respect to which it is quite impossible to apply the somewhat cumbrous provisions of an Act like XIII of 1884. That Act was admittedly a compromise between divided opinions, and the then Lieutenant-Governor of the Punjab did not hesitate to say in Council that the form in which the Act was passed was not in all respects what he desired. But the hope was nevertheless entertained—a hope common to legislative efforts at all times—from Theodosius to Napoleon—but a hope in each instance doomed to early disappointment—that the Act then passed had solved the difficulty of regulating municipal government in the Punjab. A comparatively short existence of seven years has dispelled the illusion, and it is now admitted on all hands that the Act of 1884 has been found inadequate. Too intricate for the wants of smaller towns, not wide enough in its scope to meet the growing requirements of large cities and hill municipalities like Simla, and defective in matters relating to control, prevention from fire restraint of infection, and regulation of manufacture, preparation and sale of food and drink, an amendment of the law was urgently called for.

"In this condition of things there were two possible courses open to the Government, namely, either to give each municipality a law of its own, or to recast, simplify, and so amend the existing law as to give it greater flexibility and elasticity, and thus bring it into a more general workable condition. From the point of view of the draftsman, the former course would have presented by far the less difficulty, but there were obvious objections to this course, since the multiplicity of laws it would have introduced would have created confusion and rendered the task of efficient control on the part of the Local Government one of almost insuperable difficulty. There remained therefore only the alternative course, and in adopting the latter it was also decided that the opportunity should be taken of enlarging the powers of municipal bodies in the direction where experience had shown such a step to be necessary, of giving greater facilities for the prosecution of offences under the Act, of vesting such powers of control in the Local Government as would ensure the due performance of their duties by municipalities, of simplifying the imposition and remission of taxation, and, lastly, of introducing a simple regulation for such small townships

as were not fitted for the full privileges of municipal government, but in respect to which some adequate statutory sanction was required to deal effectively with questions of conservancy and watch and ward. It was upon these lines that the Bill as introduced was framed, and it is upon these identical lines that its provisions have been subjected to fresh revision at the hands of the Select Committee. In its present form it is hoped that the Bill will be found to realise its objects, and to commend itself to the favourable consideration of the Council.

"No changes in principle have of course been introduced in the revised Bill, and for this reason, and because it was very necessary that this important piece of legislation should be completed during the present sitting of Council, at which His Honour the Lieutenant-Governor of the Punjab could be present and afford the Council all the benefit of his vast experience and knowledge of the requirements of his province, it has not been thought necessary to re-publish the Bill. The Select Committee has not, however, hesitated to simplify throughout the wording of the sections in the original draft and to re-arrange their order, wherever such a course appeared to be desirable and to effect an improvement in the general construction or language of the Bill. These formal alterations are fully enumerated and explained in the Report of the Select Committee, and I need not trouble the Council with any further reference to them. It will be sufficient if I notice in this place a few of the other more important alterations which have been introduced in Select Committee.

"Beginning with the first chapter of the Bill, it will be seen that we have struck out the proposed definition of animal as meaning 'any creature' other than a human being' as likely to lead to some inconvenient results which were probably overlooked in the original drafting. Thus in section 100 of the Bill as introduced a very suitable provision was made with respect to the disposal of dead bodies of animals. But if the term 'animal' was to receive the interpretation given to it in the definition section, it would necessarily include rabbits, hares, game birds and poultry of various kinds; and the carcasses of all such 'animals,' although they may have been slaughtered for domestic consumption, would have been obliged to be conveyed within twenty-four hours to a place fixed by the committee for the disposal of the dead bodies of animals, or to be otherwise disposed of as the committee might direct! Such an interference with the domestic culinary arrangements of private households was a matter which the Select Committee did not think was within the range of practical legislation. It was accordingly determined to strike out the general definition as unnecessary, and to substitute a special definition in section 100 of the Bill for the purposes of that section only, which would secure the object the Bill had in view and yet not unnecessarily deprive the inhabitants of municipal towns of the produce of their domestic farmyards.

"So again in section 52 and section 151 (now section 150) we have introduced, in the interests of the public, certain alterations which will enable the Local Government to empower any officer to hear and determine appeals under the Act, as it thinks fit. By this provision the inconvenience will be avoided which persons desirous of appealing might suffer if they were obliged, in the specified cases, to seek the Commissioner, who is usually a follower of the peripatetic school, and is seldom found, in the cold season at all events, at his head-quarters.

"Similar considerations in favour of public interests have induced us to amend the provisions of clause (g) of section 120, which, as originally drawn, declared an order passed for the confiscation of inflammable or explosive material found in a house in excess of the authorised quantity to be 'not open to appeal.' Such a provision did not appear to be just having regard to the nature of the penalty, and we have altered it by allowing an appeal. We have likewise made provision for an appeal in the case of orders passed against agriculturists for not providing proper house-scavenging, as it did not appear to us that orders of this kind should be final in the first instance. Both these alterations have received the full concurrence of the Punjab Government.

"So also in section 104 the Select Committee has introduced certain words which it is believed will render the section less likely to operate harshly on the owners of buildings within a municipality. It is certainly very desirable that municipalities, especially those situated in hilly tracts like Simla or Murree, should have the

power of prohibiting the lighting of fires in the top storey of certain buildings. Such a power is needed in the interests of the public for the prevention of fires in localities, like bazars, where buildings adjoin one another, and are of a construction which renders them easily inflammable. But at the same time the power is one that ought clearly not to be permitted to be exercised, interfering as it would do with the liberty of the subject in what would ordinarily be regarded as the legitimate use of one's own property, except in so far as it may be absolutely necessary for the protection of the public interests. To that extent only it is right and proper that the interests and liberty of the individual should be subordinated to and controlled by the larger interests of the public; and the Select Committee has endeavoured not to enlarge this general principle in the alterations it has made in the wording of this section.

"Again, lovers of dogs will not perhaps regret that the Select Committee does not recommend the retention of the section empowering all dogs in streets—a term which has a wide signification in the Bill—to be muzzled during any period not exceeding six months. Such a provision may be salutary in large cities in Europe where dogs are the private property of individuals, and where it is possible to enforce it. But the Select Committee is of opinion that a similar provision would not be of any practical value in a country like India, where ownerless dogs abound in all cities, towns and villages. It would be impossible to require such dogs to be muzzled, and, so long as they were uninterfered with it, would be of little use enforcing the provision in the case of other dogs. To make the proposal at all effectual, it would be necessary to cause the wholesale destruction of pariah dogs. But such a wholesale destruction of animals, not altogether devoid of use in native towns and villages, would partake of some barbarity, and would be scarcely justified by the possible—but by no means certain—prevention from rabies which the compulsory muzzling of private dogs might ensure. The Select Committee has accordingly felt itself unable to adopt the provision in the Bill as introduced, as it was undesirable to prescribe a rule which was not capable of general application, more especially as its introduction would undoubtedly have been considered by a large section of the public as a piece of unnecessary cruelty imposed under the sanction of the Legislature. I would only add that the non-retention of the proposed provision meets with the entire approval of His Honour the Lieutenant-Governor of the Punjab.

"The Select Committee has also altered the wording of section 138 so as to make it clear that the destruction of dogs *suspected* of suffering from rabies is only to be resorted to when there are reasonable grounds for such suspicion; and it has enabled the committee to cause suspected dogs to be confined for such period as it may deem necessary when their immediate destruction is not called for.

"To pass from measures for the protection from rabies to measures controlling the power of taxation may seem perhaps to indicate a somewhat rapid and singular transition of ideas. But, startling as the assertion may seem at first sight, there is not wanting, I think, a certain affinity between the two subjects, for both sets of measures refer to matters which, left uncontrolled, are certainly maddening in their results, and from this point of view I trust I may be excused for noticing next in order the provisions of the Bill, as now amended, regulating the power of taxation. The two subjects, moreover, have this further element in common that both appear to fall into the category of those questions which, as Mr. Ruskin remarks, 'need for their right solution at least one positive and one negative answer, like an equation of the second degree.' For instance, from the point of view of a lover of dogs or of the individual tax-payer, the matters to which I have referred would no doubt require to be dealt with from a standpoint which would most likely involve the exact negation of that which would be called for in the interests of the community. But while fully recognising the possibility of both an affirmative as well as a negative answer being given to the problems which presented themselves to us in matters touching the imposition and realisation of taxes, we have endeavoured to handle the subject in a manner which would give reasonable protection and relief to the individual tax-payer, and at the same time afford to the body representing the community all needful means and facilities for discharging its own duties and obligations. Thus, on the one hand, the Bill before the Council contains a series of important provisos to subsection (8) of section 45, by which it is declared that no tax shall come into force



until its imposition has been notified and not less than three months have expired from the date of the meeting at which its imposition is directed, and that taxes leviable by the year shall come into force on certain specified dates. The first two of these provisos will, it is believed, afford sufficient guarantees that no tax will be leviable until the persons who will be liable to pay it have had a reasonable opportunity of objecting to the same, while the third proviso embodies a convenient rule the absence of which gave rise to some trouble under Act XIII of 1884. On the other hand, section 55 in making it the duty of every inhabitant to furnish such information as may be necessary in order to ascertain whether he is liable to pay any municipal tax, and section 70 in providing a penalty for the evasion of payment of octroi, are intended to supply omissions in the existing Act and to strengthen the hands of the municipal committees in working the provisions of the Act relating to taxation.

"Again, in the matter of remissions in whole or in part of assessed taxation, the Bill as now amended will, it is believed, be found to adjust the rights of both parties on a satisfactory basis. The primary rule adopted in section 62 is, that if property assessed to a tax which is payable by the year or by instalments remains unoccupied and unproductive of rent throughout the year or the period in respect of which any instalment is payable, the amount of the tax or of the instalment, as the case may be, shall be remitted. But in order to protect the committee from being defrauded of any tax that is justly due, a proviso has been added that no remission shall be granted unless notice in writing of the circumstances under which it is claimed has been given to the committee within the first month of the period in respect of which it is so claimed. The object of this proviso is to ensure that the committee will have early notice of the grounds of any claim for remission, so that it may be able to take such measures to safeguard its own interests as it may deem desirable. Sub-section 3 has also been added in the interests of the committee to make it quite clear that the burden of proving the facts entitling any person to claim a remission shall in every case lie upon him. On the other hand, sub-section (2) is intended to supply an equitable relief to the tax-payer in cases which under the existing law are unprovided for. It may often happen that property assessed to a tax may be unoccupied and unproductive of rent for a period short of the entire period for which the tax is payable. To take an extreme case—a house assessed to a tax payable by the year may be unoccupied and unproductive of rent for eleven months out of the twelve. In such a case it would seem to be contrary to the plainest sense of justice to demand payment of the entire tax. Or, to take an other conceivable case—a house may consist of separate tenements which are ordinarily used or rented as such, and there are many houses in Simla of this description, but the tax may be payable by the year in a lump sum on the whole house. Now it may happen that one or more of these separate tenements has or have not been occupied or productive of rent during some part of the period for which the tax is payable. Here again equity seems to require that the person liable to pay the tax should obtain some remission. In order to meet such cases clauses (a) and (b) of sub-section (2) of section 62 have been added, and the committee is thus placed in a position of making such remission as it thinks equitable, when the property has not been occupied or productive of rent for any period not less than sixty consecutive days. This latter period has been adopted from other Municipal Acts as supplying a reasonable limit within which no claim for remission should be sustainable. But here, again, to prevent the added provisions from being applied to cases where, as in Simla and in other hill sanatoria, houses are only occupied during a certain portion of the year, although the rent obtained is intended to cover the occupation for the whole year, the Select Committee has inserted sub-section (5), which declares that a house shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether the house is actually occupied by the tenant or not. This sub-section will accordingly prevent a person from claiming a remission on the score of his house having been unoccupied—say from January to April or from November to the end of December—where the rent actually realised was intended to cover the occupation for the whole year.

"In Chapter VI of the present Bill several sections have been newly added and others have been considerably altered with the object of enlarging the powers

of municipal committees in those directions where such bodies can most usefully act in the general interests of the community. Thus in the matter of the erection or the re-erection of buildings, section 88 of Act XIII of 1884 has been found in practice to be defective in several respects. It does not, for instance, prescribe any limit of time within which a person who gives notice of his intention to erect or re-erect a building, and who has not been prohibited by the committee from carrying out his intention, must proceed with such erection or re-erection, and the consequence has been that buildings have been commenced to be built or rebuilt at periods long after the committee had received notice, and when, owing to the physical condition of things in the neighbourhood having meantime undergone considerable change, it was most undesirable that a building of the kind for which notice had been given should be erected or re-erected. In growing localities the necessity of some such limit of time must be obvious in order to prevent overcrowding. Sub-section (6) of section 92 of the Bill now before the Council accordingly introduces such a limit, which it is believed is reasonable in itself and will meet the difficulty that has hitherto been felt. Again, the proviso attached to section 88 of the existing Act imposed the liability on the committee of paying full compensation to the owner for any damage he may sustain in consequence of the prohibition of the erection or re-erection of any building. Now it seems fair enough in principle that an owner of property who wishes to rebuild a portion of that property which may have fallen down, or which may be in a ruinous or unsafe condition, and the rebuilding of which may materially affect his comfort or the value of his property, should be compensated for any damage he may sustain in consequence of the committee's prohibition. But it is by no means as equally obvious that similar compensation should be given when the prohibition relates to an entirely new building, although it is right that some check should be placed on the arbitrary exercise by committees of such a power of prohibition. The present Bill therefore limits the right of an owner to demand compensation to the case of a refusal to allow him to rebuild, but in section 150, clause (b), the right of appeal is given to him if he feels himself aggrieved by the order of the committee. Provision has also been made for the submission of such plans and specifications as the committee may, by bye-law, require, without which it would often be impossible for a committee to exercise its powers under the section in an intelligible manner, while the previous confirmation by the Local Government of any such bye-law required by section 146 (1) of the Bill will prevent any such bye-law from being oppressive. In this manner the Bill endeavours to supply defects in the corresponding section of Act XIII of 1884, and at the same to provide proper safeguards for the protection of private interests.

"So also in giving committees power to regulate the manufacture, preparation, and sale of food and drink (section 137), to prevent the storage of excessive quantities of petroleum or other inflammable material (section 105), to require information of infectious diseases (section 139), to cause the removal of persons suffering from such diseases to a hospital or other place set apart for the treatment of the same (section 140), to prohibit the use of unwholesome water (section 141), and to establish and maintain fire-brigades (section 172), the Bill is a distinctly progressive measure, and far more complete than the existing Act. Without a potential power to deal with such matters, the committees of large cities and towns would be likely to be impeded in affecting sanitary and other reforms upon which the health, safety or convenience of the public may largely depend.

"But in a province where the people have as yet little experience in the art of self-government, where municipalities exist varying from those containing 500 to those containing over 189,000 inhabitants, and where very divergent habits and customs also exist, it is essential that the principle of the division of

• L. XI, Chapter IV.

power formulated by Montesquieu\* should be carefully maintained, namely, that 'in order that power may not be abused, it is necessary to arrange things in such a way that power shall check power.' With this object the Bill, while, as I have pointed out, considerably enlarging the powers of committees, has not omitted to vest the Local Government, Commissioners of Divisions, and Deputy Commissioners of Districts with ample powers of control. The general public has thus a guarantee

that municipal committees will not be permitted to abuse the larger powers which have now been conferred upon them, but will only be allowed to exercise them in the interests and for the general welfare of the public. Nor again need there be any apprehension that the administration of municipal affairs will be unduly interfered with by Commissioners and Deputy Commissioners. These officers have been exercising substantially similar powers to those given by the Bill under the existing law, and there is no reason to suppose that they will exercise them in the future, any more than they have in the past, except in cases of real necessity. And after all there is the safeguard, which the present Bill maintains, that any interference on the part of the officers named must be forthwith reported to the Local Government, which then has it in its power of immediately rectifying any injudicious interference by modifying or rescinding the objectionable order.

"In Chapter X of the Bill provision is made empowering a committee to authorise persons to prosecute either generally in regard to all municipal offences, or particularly in regard only to specified offences or offences of a specified class. Such a provision is much needed and will greatly facilitate the institution of prosecutions, which, under the existing law, often involves considerable trouble. The power given by section 186 to the Local Government to empower the president, vice-president or a sub-committee of the committee of a municipality of the first class to compound offences is also a new provision, and if worked judiciously ought to prevent many prosecutions of a trivial character, which otherwise could not be avoided, from being instituted or proceeded with to a final judgment. The principle of permitting offences of a certain kind not affecting society at large to be compromised, as well by private persons as by public officers, is not, however, a new one. It is recognised in section 345 of the Criminal Procedure Code, in section 67 of the Forest Act and in section 13 of the Salt Act of 1882; and as the power can only be conferred on a committee of a municipality of the first class, and exercised either by the committee itself or by its president, vice-president, or a sub-committee appointed by it, it is not a provision which is likely to lead to any abuse, and, if it does, we have added words to sub-section (5) which will enable the Local Government to withdraw the power.

"My Lord, I fear I have already trespassed largely on the patience of the Council, but I must beg its indulgence a little while longer, for there are still some provisions of general importance in the Bill which I cannot omit to specifically mention.

"One of these provisions is that contained in clause (d) of section 144, by which the committee of a municipality wholly or in part situated in a hilly tract is empowered to make bye-laws for rendering licenses necessary within the municipality (a) for persons working as job porters for the conveyance of goods, (b) for animals or carriages let out on hire for a day or part thereof, and (c) for persons impelling or carrying such carriages. That licenses are necessary for animals or carriages let out for hire no one, I imagine, will deny, and I need say no more as to this provision. But with respect to the requirement of licenses in the cases provided for by clauses (a) and (c), the question, I admit, is a debatable one. It seems to me, however, that the true justification for requiring licenses from the classes of persons referred to in clauses (a) and (c) lies in the comparative scarcity of such unskilled labour in hill-municipalities like Simla and Murree, and the necessity that has been felt in consequence of exercising some control over persons of the classes mentioned. The absence hitherto of any power of control has given rise to loud complaints in several of these hill-municipalities, and the existing condition of things is such as to call for special measures in the interests of the general community. Looking, therefore, at the exceptional circumstances which in hill tracts hedge in the question of legislative interference in a matter of this kind, it is, we think, not a question which can be determined by the application of English or European generalizations, which are only calculated to play us false, but rather with reference mainly to the local conditions affecting the general comfort and convenience of the inhabitants in whose interests the introduction of licenses is proposed.

"The necessity for requiring such licenses has already given rise to special legislation in Bengal. Thus the Darjeeling Coolies Act, V of 1883, of the Bengal Council was expressly enacted to provide for the registration and control of porters and *dandewallas* in the Darjeeling and Kurseong Municipalities

in consequence 'of the rapacity and insolence of the coolies, and particularly of the *dandymen*, of Darjeeling having reached a point as to form a serious menace to the popularity and prosperity of that sanitarium.' (See Proceedings of the Council of the Lieutenant-Governor of Bengal, Vol XIV, page 41.) With the example of this legislation before it, which, it has no reason to suppose, has operated harshly upon the classes affected by the Act, the Select Committee has felt less hesitation in retaining the provision to which I have referred. In dealing with a question of this kind, it must not be forgotten that the protection of the rights of individuals is not the only purpose of a State, or interference with a private right the only evil it has to guard against. The State has also to fulfil certain other important tasks in the various departments of intellectual and economical existence, and the supreme end of all law and order is the well-being of the citizens of the State. So, in the present instance, the well-being, comfort and convenience of the general community in these hill-municipalities seem to require some such restriction as that which the Bill proposes to impose on job porters and *ghampanis* hired by the day. It should be added that as licenses can only be required by a bye-law, and all bye-laws made, as this must be, under Chapter VI, must, before they come into force, receive the confirmation of the Local Government, there is a tangible guarantee that no such bye-law will be permitted to prevail which is either prohibitive or otherwise oppressive.

"Another provision which calls for special mention, and which may possibly be regarded in some quarters as an unwarrantable conversion of a mere breach of contract into an offence, is that contained in sub-section 2 of section 203. But here, again, legislation of the kind proposed is needed with reference to circumstances of a special character which justify departure from the general rule—perfectly sound in itself, but open to certain exceptions—that a breach of contract of service is merely the subject of a civil action for damages. It must be remembered that sweepers employed by a municipality belong to a class of servants whose functions intimately concern the public health, and they are as a class persons from whom it is exceedingly improbable any damages can be obtained. Now, such persons would not be deterred from committing a breach of contract by the mere civil consequences of such a breach. On the other hand, the wrong committed by them might result in the most serious consequences to the community, for which the most exemplary damages would afford no adequate reparation, even if the delinquents could pay such damages. But, to quote the language of the Indian Law Commissioners in their Report on Chapter XIX of the Indian Penal Code, 'the whole property of the delinquents would probably not cover the expense of prosecuting them civilly.' Under these circumstances breaches of contract by persons of the above description appear to fall within the class of admitted exceptions to the general rule to which I have adverted as very likely to cause evil such as no damages can repair, and which may therefore, to quote again the language of the Law Commissioners, 'with strict propriety, be treated as crimes.' They have been treated as such in other provinces (*vide* section 188 of the Bengal Municipal Act, 1884; section 453 of the Calcutta Municipal Consolidation Act, 1888; and Bombay Act, V of 1890), and there is no reason why they should be treated otherwise in this province. I am assured both by the present Vice-President and by the Secretary of the Simla Municipality that the inconveniences arising from sudden refusals on the part of municipal sweepers to perform their duties has been greatly felt this summer, and with the example of such strikes as those which occurred in the City of Bombay in 1889, which led to the passing of the Bombay Act, V of 1890, and to a similar strike which my hon'ble friend, Sir Philip Hutchins, informed the Council last Thursday had just occurred in Burma, it is right, I think, that we should provide by anticipation against a contingency which might at any time expose any large city or municipality in this province to the greatest risk of pestilence or other serious injury. As observed by Sir Raymond West during the debate on the Bombay Act, 'the line between the penal and the civil mode of dealing with injuries and misconduct is entirely arbitrary;' and as in the case of all other laws, so in the present case, what the legislature has to look at is the furtherance of the general good of the community. If that consideration requires that we should restrict the liberty of the individual, or visit with penal consequences breaches of contract, sound policy and sound juridical principles alike sanction recourse to such legislation.

For these reasons, the inclusion of a provision such as that contained in section 203 seems to be absolutely necessary in a Bill which is intended, like the present, to regulate municipalities in the Punjab. It has indeed been pressed upon us that this provision does not go far enough, and that sweepers as a class should also be required to take out licenses like job-porters and *jhampanis* hired by the day. But recognising, as we feel bound to do, the general principle that restrictions on the labour market should only be resorted to when the general interests of the community render such a course *absolutely necessary*, we have not been convinced that any such necessity exists to justify the proposed restriction on sweepers as a class. To punish such persons of this class as are employed by a public body like a municipal committee for a breach of contract of service likely to result in serious public injury is defensible enough on the grounds I have already stated. But the introduction of a system of licensing sweepers as a class involves considerations of a far wider character, and would, we think, cause considerable public irritation if adopted. To render any such system effectual, it would require to be extended to *all* sweepers within municipal limits. Private employers would, however, have just reason to complain that a system which prevented them from employing whom they liked for their own domestic services was a very serious invasion on their civil rights, while sweepers would equally be entitled to complain of harsh treatment if they were prohibited from seeking service except on condition of possessing a license which was capable of forfeiture at the will of a municipal committee. A restriction of this kind could only be justified on the strongest public grounds, and we are not satisfied that any such grounds can be shown to exist. It appears to us that as regards private sweepers, the ordinary remedy which the law allows for non-performance or negligent performance of duty is sufficient for all practical purposes, while as regards sweepers employed by committees the provision of the Bill rendering breaches of contract of service penal in the absence of a specified notice affords all the additional remedy that is needed to guard the public against any risk of pestilence or other serious injury resulting from a sweeper strike. The sweeper must be very different to every other human being if liberty, though cheered with only the proverbial Horatian crust of bread, is not as sweet to him as to any other individual, and the risk of incurring incarceration in a common jail for a period of two months, with all its attendant inconveniences, will, we are assured, act as a sufficient deterrent to prevent him from committing any breach of a contract which he may have entered into with a municipal committee. In the case of job-porters and *jhampanis* hired by the day, the matter stands on a very different footing. These persons are not servants, and they cannot be made amenable, like sweepers employed by a municipality, to criminal punishment for their rapacity. But at the same time they are persons who enjoy a sort of monopoly of labour of a particular kind; the public is obliged to employ them and is at their mercy, liable to extortion and insolence at their hands. Here then there is an obvious necessity for some expedient to check their demands and to control their conduct in the general interests of the public, and a system of licenses is perhaps the most suitable expedient that can be adopted. For these reasons the Select Committee has not felt itself able to recommend the adoption of the proposal to which I have referred.

"Section 204, as the Council is already aware, has been inserted in the Bill in consequence of an urgent representation from an influential section of the inhabitants of Lahore, and is based on the provisions of a repealed Act, XXI of 1857, section 7, subsequently embodied in section 17 of Bengal Act II of 1866 and in section 43 of Bengal Act IV of 1866. It deals with a branch of a much larger question, but, so far as it goes, the section appears to be unobjectionable, and to be called for by a popular demand.

"Section 209 is intended to quiet doubts as to the legality of the house and frontage taxes which have been levied in the municipality of Simla since 1885. The circumstances which gave rise to these doubts are fully explained in the following extract from a memorandum prepared at my request by my friend, Mr. Thomson, the Revenue Secretary to the Government of the Punjab, to which I have nothing to add:—

'When Act No. XIII of 1884 was passed and made applicable to the Simla Municipality, all taxes then in existence there were continued in force by section 52 of the new Act, except in so far as they might be inconsistent with the provisions of the latter.



'Another section of the same Act—No. 161—gave the Local Government power to continue in force, subject to certain conditions, all rules, regulations or bye-laws made under the former law of 1873. Accordingly, in the exercise of this power the Local Government published Notification No. 804 of 23rd October, 1884, which continued in force in Simla a number of election, sanitary and fiscal rules made under the Act of 1873. The provisions of this latter Act were of a general kind, and so it happened that the fiscal rules framed under it not only regulated the date and place of payment and other like matters, but actually imposed the taxes themselves. Rules imposing taxes could not, of course, be continued by any action under section 161 of the Act of 1884, and the notification was, it is believed, so far *ultra vires*. But this point was either overlooked at the time, or, what is perhaps more likely, it was judged better for the sake of clearness to re-publish the rules as a whole, even though some of them had necessarily become inoperative. The taxes themselves were, of course, continued independently under the operation of section 52.

'Recently the Simla Committee desired to introduce some amendments into their house-tax, and they attempted to do so by proposing an amendment of the fiscal rules continued by the notification published under section 161. The state of the case then at once became apparent. It was pointed out to the Committee that these rules, so far as they purported to impose taxes, had in reality not been continued by the notification under section 161, that the house-tax was really in force under the provisions of section 52, and that if it was to be amended it must be amended by action under Chapter III of the same Act. The Committee recognised the correctness of this view of the law, but they expressed some apprehension lest the discovery that some of the fiscal rules were a dead-letter might not lead to trouble and litigation. In deference, therefore, to the apprehensions of the committee, as an amending Municipal Act was actually under consideration, it was resolved to introduce into it a section giving an additional statutory protection to the Simla house and frontage taxes which are really in force under section 52 of Act XIII of 1884 but have hitherto been erroneously supposed to be in force under Notification No. 804 of 23rd October, 1884.'

"It only remains to refer to Chapter XI of the Bill, which, as its title indicates, is intended to apply to small towns in respect to which the main provisions of the Bill would not be suitable. Section 210, it will be seen, empowers the Local Government to constitute what are termed 'notified areas,' and section 311 enables the Local Government to impose taxation and regulate expenditure in such areas, while section 212 authorises the extension of any provision of the Act to any such area as may be deemed suitable thereto, and section 213 gives the Local Government power to cancel any notification under section 210. Ample provision is thus made for the extension of a modified form of municipal administration to 'notified areas,' and this chapter is a necessary complement to any scheme of legislation affecting municipalities in the Punjab.

"I have now gone through some of the more important provisions of the Bill, and what I have said will, I trust, satisfy Hon'ble Members that it is generally calculated to meet its requirements. The Select Committee cannot, of course, hope that the Bill, if passed, will be found to be so complete that the law may need no further amendment. In a fast growing province, with a wide scope for still further development in the future, and with a population for the most part active and vigorous, time must bring changes which may necessitate a further expansion of municipal government. New circumstances must arise to which measures must then be moulded. But what we may, I think, reasonably hope for is that the Bill as now amended will meet all existing requirements, and will be found to contain within itself all the necessary elements to satisfy any further expansion of municipal institutions in the Punjab which the future is likely to develop.

"My Lord, I have to apologise for the length of time I have occupied your attention, and I will only say, in conclusion, that it has been a great satisfaction to me to find myself engaged on so important a piece of legislation, affecting a province to which I am greatly attached, on the very first occasion that I have been called upon to take an active part in the business of this Council."

His Honour THE LIEUTENANT-GOVERNOR said:

"After the very full observations which have been made by my hon'ble friend, Mr. Rattigan, it will only be necessary for me to say a very few words, particularly as he has kindly referred to my full concurrence in the various changes made in Committee on the Bill. I wish to say that I shall assent with full confidence to the Motion which will be presently brought forward that this Bill be now passed. The changes which it will make in the present law seem to me, so far as they go, calculated not only to facilitate municipal administration, but to enlarge and strengthen it. I have observed

that suspicions were at one time expressed in some quarters that the new measure was to be retrogressive in character, and that it would put the committees more into leading strings than before. This idea of the scope and objects of the measure will, I hope, be seen to be quite inapplicable to the Bill both as introduced and as it now stands. The new provisions which we propose to enact do not involve the comprehensive working out of any new principle. They are merely supplementary to the present law. Modest as they are in plan, their general tendency, almost without exception, is not to curtail municipal action, but to confer greater power and increased responsibility upon municipal committees. In fact, this development of function is so considerable that in some instances it is only the most advanced municipalities which will be able and willing to undertake all the duties which the law permits to be entrusted to them. To meet this condition of affairs provision has been made that several sections of the new law shall only operate in a municipality when specially extended thereto by the Local Government, and the exercise of this power by the Local Government is itself made subject to an initial action on the part of the committees, so that no municipality can be placed under any of these sections except on the request of its own representative body. The committees are thus practically receiving power to decide whether they will adopt certain provisions of the law or not. This is not only a substantial increase of authority, but will have perhaps some tendency to raise the level of municipal debate. The dry succession of executive details may be enlivened by a deliberation as to whether it is on principle desirable to undertake a new duty and incur a new responsibility. The Local Government, indeed, retains a negative voice, but this check will in practice be a check for the people and not on the people. It is never likely to be exercised in regard to any well-considered request for an extension of function based upon general popular consent. But, if any over-zealous committee were to attempt to introduce into a town advanced arrangements for which it was not ready or fit, the Local Government would probably feel disposed to protect the alarmed inhabitants from the too hasty energy of their representatives.

"Sections 7 and 8 in the Bill have at first sight a somewhat drastic appearance. It may therefore be as well to explain what their exact force really is. Under the law as it now stands the Local Government has power to regulate the number of elected and appointed members upon a committee as the public interests may require. The new Bill makes no change in this respect, but sections 7 and 8 are intended to provide that this power shall not become practically ineffectual through delay. At present the Local Government may decide that the public interest requires an elective in place of a nominated committee. But so long as the nominated members hold their seats, it cannot order a single election. And this hindrance to the change of system deemed advisable may endure for three years. Similarly, the state of feeling in a town may be such as to render it absolutely necessary to suspend temporarily the operation of the elective system, and to appoint a nominated committee. Here again, as the law at present stands, if elections have been recent, a change immediately desirable might be postponed for several years. This state of matters is clearly in need of amendment. In fact, sections 7 and 8 are rather sections of procedure than sections of substantive law. No increased power of decision is essentially given to the Local Government, but a process is provided under which the decisions which it can give under the powers which it already possesses can be immediately applied and made effectual. Such a process is obviously necessary.

"Of the Bill as a whole it may be said that it will be a not inconsiderable improvement upon the present Act. Chapter XI in particular (which is new) will, I think, be very useful if it is applied with proper moderation and discretion. No attempt will be made to stretch the provisions of the chapter to cover doubtful cases, or to harass communities which are essentially rural or agricultural with unsuitable and injurious imitations of municipal institutions. If these precautions are observed, and if we are content with slow and steady progress, I have little doubt that without arousing any discontent measures will be taken under this chapter by which the health and comfort of many small towns in the Punjab will make substantial progress.

"I only wish to add that being responsible for the original draft of this Bill, which is so closely connected with the daily life of the townspeople of the Province, it has been to me, and I believe to the educated townspeople of the

Province, a source of satisfaction and confidence that the Council in dealing with the measure has had the assistance of my friend Mr. Rattigan. For by his long experience of the Punjab, more especially in regard to the life of its great cities, he is peculiarly well fitted to act as the guardian of popular interests and the exponent of popular wishes in all matters connected with municipal administration."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER said:—"I have been asked by my hon'ble friend, Mr. Rattigan, to move an amendment for which I believe, as no notice has been given of it, I must obtain the consent of the Council to move without notice. It has been represented that committees may be put into some difficulty by reasons of persons liable to pay taxes, such as occupiers of houses and the like, in any municipality, leaving the municipality without paying such taxes and taking all their property away with them, and that, as the law stands, or as it would stand if this Bill be passed as it is framed by the Select Committee, there cannot be any remedy against such persons except by a civil action in the district in which they may be resident. It has been suggested to us—and the Select Committee are agreed that it would be a desirable amendment, and one which if it had been brought to their notice in time would have been made by them—that the law should be extended so that the same remedy should be given in the place where the defaulter is found as the committee would have had if he had continued to remain in the municipality. It is therefore proposed to introduce certain words in section 201 of the Bill in order to meet such cases. By section 201, 'any arrears of any tax or fee or any other money claimable by a committee under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property within those limits belonging to the person from whom the money is claimable.'

"I propose to alter that in this way:—after the word 'municipality' to add 'or in any other place where the defaulter may for the time being be resident,' and instead of the words 'within those limits belonging to the person from whom the money is claimable' to substitute the words 'within the limits of his jurisdiction belonging to such person.'

"The only result of this amendment will be that if a man should leave a municipality without paying his taxes, and go elsewhere, he will be made liable to pay them by the Magistrate of the district instead of its being necessary first of all for the municipality to establish a right to the taxes, and then to bring a civil suit founded on that decision for their recovery—a proceeding which, I need not say, is attended with a good deal of circumlocution which it is very desirable to remedy."

The Hon'ble SIR PHILIP HUTCHINS suggested the desirability of omitting the word "defaulter" and of substituting for it the words "the person from whom the money is claimable."

The Hon'ble SIR ALEXANDER MILLER said that the word "defaulter" was used elsewhere in the Bill, but he saw no reason why the suggestion made by the hon'ble member should not be accepted. The sentence would therefore run "or in any other place where the person from whom the money is claimable may for the time being be resident."

The amendment was then put and agreed to.

The Hon'ble MR. RATTIGAN moved that the Bill as amended be passed. He said that the several provisions of the Bill had already been so fully dealt with that he did not think it necessary to say anything further in support of this motion.

The Motion was put and agreed to.

#### LOWER BURMA MUNICIPAL ACT, 1884, AMENDMENT BILL.

The Hon'ble SIR PHILIP HUTCHINS moved that the Report of the Select Committee on the Bill to amend the Lower Burma Municipal Act, 1884, be taken into consideration. He said:

"The first section of the Bill merely contains a few definitions to which no exception has been taken.

"The second provides for the levy of tolls on vehicles and animals entering the municipality. It seems that some people keep their carriages outside municipal limits, and thus evade payment of what is popularly called the 'wheel-tax.' The only way of meeting the difficulty appears to be to levy tolls on all vehicles entering the municipality, except such as have paid the regular tax. This is the system which prevails throughout the Madras Presidency, and it seems eminently fair. Section 8 of the Bill contains a subsidiary provision regarding the exhibition of tables of tolls.

"Section 3 merely extends the power of the municipality to incur any expenditure which the Local Government may consider proper, even though it may not be obviously and immediately calculated to promote the welfare of the inhabitants.

"Section 5 will only come into force in municipalities to which the Chief Commissioner may see reason to extend it by a special notification. It is designed to enable the committee to regulate the mode of constructing buildings and forbid the use of dangerous materials in crowded towns.

"Sub-section (4) of the fourth section defines the expression 'erect or re-erect any building.'

"All these provisions are identical with corresponding clauses in the Punjab Bill which the Council has just passed into law.

"The other sub-sections of section 4 relating to the erection of new buildings are very nearly identical with provisions in the Punjab Act, and the same remark applies to section 6 and the first two sub-sections of section 7, which deal with privies. No objection has been taken to any of these clauses, and the Chief Commissioner considers them better adapted to Burma than the somewhat more elaborate provisions of the Act just passed.

"Only sub-sections (3) and (4) of the seventh section remain, and to these certain objections have been put forward. Shortly stated, the former imposes on house-holders the obligation, upon the requisition of the committee, to connect their premises with the municipal sewers, while under the latter the connection must be carried through any intervening land unless the Government or other proprietor of such land refuses to allow this. The obligation, however, will only extend to houses situated within one hundred feet of a sewer, so that no unreasonable expense will be entailed on the owners of house-property.

"It has been urged that the obligation is a novel one, and that it is not imposed on the inhabitants of the presidency-towns, the conditions of which are very similar to those of Rangoon; but hon'ble members, if they refer to the margin of sub-section (3), will see that it is taken (and it has been adopted almost *verbatim*) from the Madras Municipal Act of 1884. The objectors have referred more particularly to the Bombay Act, but that also recognizes very much the same principle. It obliges all house-holders to remove to a municipal receptacle or depôt the filth collected on their premises, unless the Commissioners elect to do this by their own servants, in which case a scavenging-tax is levied. It is the duty of all municipalities to provide for the ultimate removal of filth which has been deposited in public depôts, and they do this either by sewers or by a special service; but everywhere it rests on the house-holders to provide for the conveyance of the filth from their premises to the depôt or sewer, and, where there is such a drainage-system as has now been established in Rangoon, this can only be done satisfactorily by means of a drainage-connection.

"It has been urged that certain inveterate habits of the Burmese which I need not here particularize will prevent the drainage-system from working satisfactorily, and that in that case the construction of connections will only cause useless expenditure. Hon'ble members have doubtless read Major Temple's memorandum on this subject, and will probably agree with the Chief Commissioner's opinion that it has sufficiently disposed of the objections raised. It will be seen from Mr. Man's representations, made on behalf of himself and other house-holders of Rangoon, that he asks no more than that power be reserved to the Chief Commissioner 'to stay the municipal hand' until he is satisfied that the drainage will be effectual. This request seems reasonable enough, and we have accordingly provided that the two sub-sections in question shall only be applied to particular



municipalities by a special order of the Chief Commissioner. All rules regarding the manner in which drainage-connections are to be made or maintained will also require the approval of the Local Government."

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS said:

"I have now to propose two amendments in the Bill as reported by the Select Committee. I gave notice of them last week, when I also stated the reasons which make them desirable. The first amendment is that for section 7 of the Bill, as amended, the following section be substituted, namely:

Substitution of two new sections for section 92, Act XVII, 1884.

"7. For section 92 of the said Act the two sections following shall be substituted, namely:

'92. (1) The committee may, by notice, require the owner or occupier of any building or land to close, repair, alter, or put in good order any water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray belonging thereto.

(2) The committee may, by notice, require any person who constructs any new water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray without its permission in writing or contrary to its directions or regulations or to the provisions of this Act, or who constructs, re-builds or opens any water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray which it has ordered to be demolished or stopped up or not to be made, to demolish the water-closet, latrine, urinal, privy, drain, cesspool, trap, sink or sulliage-tray, or to make such alteration therein as it thinks fit.

'92A. (1) Where any building or land situated within one hundred feet of one of the sewers or drains set apart by the committee for sulliage, sewage or other offensive matter is at any time not drained to the satisfaction of the committee by any or a sufficient drainage-connection with such sewer or drain, the committee may by notice require the owner of such building or land to make and maintain a drainage-connection with the sewer or drain in such manner as the committee may, by rule made with the sanction of the Local Government, direct.

(2) The provisions of sections 109 and 110 of this Act shall apply to any default in compliance with any such requisition notwithstanding that part of the land through which the said drainage-connection is required to pass may not belong to the person so making default, unless he shall prove that the default was caused by the act of the owner or occupier of such last-mentioned land.

(3) This section shall not take effect in any municipality until it has been specially extended thereto by the Local Government at the request of the committee."

"This amendment is merely formal, the object being to show that what is now sub-section (4) of section 7 is not intended to have any effect except in connection with the preceding sub-section on which it is dependent, and in those municipalities to which this third sub-section may have been extended. The effect of the amendment is simply to cast these two sub-sections into a separate section, which is numbered 92A, with a proviso at the end that it shall not take effect in any municipality until it has been specially extended thereto by the Local Government at the request of the committee. In other respects the wording is identical with that recommended by the Select Committee."

The amendment was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS continued:

"The other amendment which I have to propose is as follows:

that after section 8 of the Bill, as amended, the following section be added, namely:

Addition of new section after section 132, Act XVII, 1884.

"9. After section 132 the following section shall be added, namely:

'132A. (1) In the absence of a written contract to the contrary, every sweeper employed by a committee shall be entitled to one month's notice before discharge or to one month's wages in lieu thereof, unless he is discharged for misconduct or was engaged for a specified term and discharged at the end of it.

(2) Should any sweeper hereafter employed by a committee in the absence of a written contract authorising him so to do and without reasonable cause resign his employment or absent himself from his duties without giving one month's notice to the committee, or neglect or refuse to perform his duties or any of them, he shall be liable to imprisonment which may extend to two months.

(3) The Local Government may, by notification, direct that, on and from a date to be specified in the notification, the provisions of sub-sections (1) and (2) with respect to



# The Gazette of India

EXTRAORDINARY.

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SIMLA, SATURDAY, AUGUST 8, 1891.

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## HOME DEPARTMENT.

The following is substituted for Home Department Notification No. 95, dated 16th February 1891 :

### NOTIFICATION.

#### ESTABLISHMENTS.

No. 290.

*Simla, the 7th August, 1891.*

A vacancy having occurred in the Office of an Ordinary Member of the Council of the Governor General of India by the resignation of the Honourable SIR CHARLES HAUKEs TODD CROSTHWAITE, K.C.S.I., and no person provisionally appointed to succeed being present on the spot, the Governor General in Council has been pleased, under the provisions of Act 24 and 25 Vict., Cap. 67, Section 27, to appoint COLONEL ROBERT CHARLES BOILEAU PEMBERTON, R.E., to be a temporary Member of the Council of the Governor General of India until a successor to the said SIR CHARLES HAUKEs TODD CROSTHWAITE shall arrive.

COLONEL PEMBERTON took upon himself the execution of his office on the 16th February 1891.

C. J. LYALL,

*Secretary to the Government of India.*



(No 2785)

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